



**Report of
The National Commission
for
Scheduled Castes
and Scheduled Tribes**

**SECOND REPORT
1 April 1993 to 31 March 1994**



D.O.No. 6/3/96-R.Cell

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SCHEDULED CASTES & SCHEDULED TRIBES,
GOVERNMENT OF INDIA
Loknaya Bhawan (Floor V), New Delhi-110 003
Res. : 5-AB, Pandara Road, New Delhi-110 003

9 July 1996

Respected Rashtrapati ji,

I have the honour to present the Second Report of the National Commission for Scheduled Castes and Scheduled Tribes for the year 1993-94. This Report though prepared by the erstwhile Commission, could not be presented by them. Hence the Constitutional obligation of presenting their Report is being discharged by this Commission.

The functions of the National Commission are rather extensive and cover both protective and preventive aspects pertaining to the welfare and development of the Scheduled Castes and Scheduled Tribes. However, due to various constraints, the Commission confined its activities to complaints majority of which cover subjects such as atrocities and denial/violation of service safeguards. Major thrust of the activities of the Commission has therefore, been in taking up grievances of SCs/STs with authorities and also on-the-spot enquiries into cases of heinous crimes such as murder, rape, burning of houses and property and grievous injuries, etc. The Commission made 44 field enquiries in reported cases of atrocities on persons belonging to SCs/STs. The findings and recommendations of the Commission have been communicated to the concerned Government authorities at appropriate level for immediate action.

This Report of the National Commission highlights the above aspects including land and gives an overview of programmes and schemes undertaken for development of SCs/STs by the Central and State Governments.

In spite of constraints of staff, the present Commission which has taken over recently proposes to expand its activities and take steps which will help it in the effective discharge of its Constitutional duties. The Commission proposes to take up compilation of all judgements of High Courts and the Supreme Court relating to SCs/STs, compilation of all orders/rules/instructions issued by the Central/States



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Governments. It is also proposing to establish a Computer Cell for creating a data bank in the Commission and to connect it with all District Headquarters through NIC Network. The Commission is taking action to establish a fullfledged Economic Cell to oversee planning process relating to the development of SCs/STs, allocation and flow of funds and implementation of programmes by the Central/State Governments. It will also be the endeavour of the Commission to establish a free Legal Aid Cell at all State Hqs. for the benefit of SCs/STs and to intervene in court cases involving policy matters having a bearing on the welfare of SCs/STs. The Commission will also strive to fix responsibility on officers responsible for deprivation, harassment of SCs/STs and violation of Government directives.

Yours faithfully,

(H. Hanumanthappa)

Dr. Shanker Dayal Sharma
President of India
Rashtrapati Bhavan
New Delhi

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CHAPTER I

I N T R O D U C T I O N

The National Commission for Scheduled Castes and Scheduled Tribes completed two years of its existence as a Constitutional body on 12-3-94. The First Report of the Commission was submitted to the President of India on the 15th August, 1994. The historical background which led to the setting up of the Constitutional National Commission for SC & ST after the amendment of Article 338 of the Constitution of India by the Constitution (Sixty-fifth Amendment) Act, 1990, has been covered in the First Report of the Commission.

1.2 The Commission handled 7918 complaints and petitions. It also made 44 field enquiries in reported cases of atrocities on persons belonging to the Scheduled Castes and Scheduled Tribes. The present Report is based largely on the complaints received in the Commission and action taken thereon and the field enquiries.

Meetings of the Commission

1.3 Between April 1993 and March 1994 the Commission held six meetings on the following dates:

Fourth Meeting	21-4-93
Emergent Meeting	16-7-93
Fifth Meeting	18-8-93
Sixth Meeting	15-9-93
Seventh Meeting	29-9-93
Eighth Meeting	22-3-94

1.4 The Rules of Procedure of the Commission under Clause (4) of Article 338 were finalised at the meeting on 22-3-94 and notified in the Gazette Extraordinary on 5-4-94.

Changing scenario in the country

1.5 India will soon complete five decades of its existence as a free and democratic nation committed to secure to all its citizens social, economic and political justice. The highest ideals enshrined in the Constitution

of India have been sought to be converted into reality through various legislative, administrative and developmental measures over the last four decades. These measures have no doubt brought about a change and, more importantly, they have brought in a sense of awareness amongst the downtrodden. The sections of the society which had been neglected since times immemorial and whose existence was often pathetic beyond contemplation, not only in economic terms but also in terms of social hierarchy, have begun to assert their rights. The provisions of the Constitution backed by a series of measures have also brought about a certain degree of insistence about the enjoyment of rights guaranteed to them. They also claim for themselves a more significant role in the management of the affairs of the country at all levels. It is a matter of satisfaction that this has started to happen although it has taken much longer than was desirable.

1.6 In today's world changes take place very quickly. What took decades to happen earlier now happens within a matter of weeks. Information and news flow from one part of the world to another in matters of seconds. Influence of alien cultures, specially of the West, is penetrating deep into the roots of society in many developing countries. In India too rapid changes have occurred in many spheres in the last eight to ten years. In the recent years the Indian economic scene has also been undergoing a major transformation. Two important policy directions of liberalisation and privatisation of industrial and economic activities and opening up of certain segments to private sector are significant changes whose impact will have long term consequences. Coupled with this is the importance being laid on up-to-date technology as it is felt that without access to high technology the country would be left behind in the race that is constantly affecting the international scene. The new policy direction no doubt has its protagonists and antagonists and arguments can be advanced both in favour of and against these measures. This Commission would not be concerned with purely economic arguments but it would be failing in its responsibility if it does not take note of the realities of the present and the hopes and fears of the future of the Scheduled Castes and Scheduled Tribes. While it is too early to take a clear cut view on the new direction the Commission would urge that alongwith the measures of privatisation parallel measures should be initiated simultaneously to protect the legitimate interests of SC & ST. It may happen that those who are already advanced and equipped to face competition only get to gain in the changed dispensation. Therefore, it is necessary to build up stronger support system alongwith very special efforts to equip those who had been deprived of opportunities and support in the past.

Other Backward Classes - Supreme Court Judgment in Indira Sawhney Case

1.7 Alongwith changes in the economic and industrial policy, another matter of great importance needs to be mentioned in the overall context of the Constitutional safeguards provided for SC & ST. The Constitution provides for appointment of a Commission to investigate the conditions of socially and educationally backward classes and the difficulties under which they labour and to make recommendations for improvement of their condition and removal of such difficulties. Accordingly the Second Backward Classes Commission was appointed under Article 340 of the Constitution, commonly known as the Mandal Commission, which submitted its Report on 31-12-1980. The Government of India issued an Office Memorandum on 13-8-1990 to the effect that the Government having carefully considered the Report and the recommendations regarding the benefits to be extended to the socially and educationally backward classes as opined by the Commission were of the clear view that at the outset certain weightage had to be provided to such classes in the services of the Union and their Public Undertakings. Accordingly orders were issued for 27% of the vacancies in civil posts and services under the Government of India to be reserved for SEBC in case of direct recruitment.

1.8 It is a fact of history that soon after this decision of the Government there was widespread protest in certain northern States against it. Writ petitions were filed in the Supreme Court challenging the Memorandum issued by the Government. The judgment in the Writ Petition (Civil) No.930 of 1990, Indira Sawhney and Others v/s Union of India and Others was delivered on 16-11-1992 by the Supreme Court of India. In the judgment the Supreme Court went into several basic questions including those relating to reservation some of which have far reaching implications.

Summary of Supreme Court Ruling

1.9 The summary of the answers to various questions dealt with by the Supreme Court in the above cases relevant to SC & ST is reproduced below:

- "(1) (a) It is not necessary that the 'provision' under Article 16(4) should necessarily be made by the Parliament/Legislature. Such a provision can be made by the Executive also. Local bodies, statutory corporations and other instrumentalities of the State falling under Article 12 of the Constitution are themselves competent to make such a provision.

(b) An executive order making a provision under Article 16(4) is enforceable.

- (2) (a) Clause (4) of Article 16 is not an exception to clause (1). It is an instance and an illustration of the classification inherent in clause (1).

(b) Article 16(4) is exhaustive of the subject of reservation in favour of backward class of citizens, as explained in this judgment.

(c) Reservations can also be provided under clause (1) of Article 16. It is not confined to extending of preferences, concessions or exemptions alone. These reservations, if any, made under clause (1) have to be so adjusted and implemented as not to exceed the level of representation prescribed for 'backward class of citizens' -- as explained in this judgment.

- (3) (a) A caste can be and quite often is a social class in India. If it is backward socially, it would be a backward class for the purposes of Article 16(4). Among non-Hindus there are several occupational groups, sects and denominations, which for historical reasons, are socially backward. They too represent backward social collectives for the purposes of Article 16(4).

(b) Neither the Constitution nor the law prescribes the procedure or method of identification of backward classes. Nor it is possible or advisable for the court to lay down any such procedure or method. It must be left to the authority appointed to identify. It can adopt such method/procedure as it thinks convenient and so long as its survey covers the entire populace, no objection can be taken to it. Identification of backward classes can certainly be done with reference to castes among, and along with, other occupational groups, classes and sections of people. One can start the process either with the occupational groups or with castes or with some other groups. Thus one can start the process with the castes, wherever they are found, apply the criteria (evolved for determining backwardness) and find out whether it satisfies the criteria. If it does - what emerges is a "backward class of citizens" within the meaning of and for the purposes of Article 16(4). Similar process can be adopted in the case of other occupational groups, communities and classes, so as to cover the entire

populace. The central idea and overall objective should be to consider all available groups, sections and classes in society. Since caste represents an existing, identifiable social group/class encompassing an overwhelming majority of the country's population, one can well begin with it and then go to other groups, sections and classes.

(c) It is not necessary for a class to be designated as a backward class that it is situated similarly to the Scheduled Castes/Scheduled Tribes.

(d) 'Creamy layer' can be, and must be excluded.

(e) It is not correct to say that the backward class of citizens contemplated in Article 16(4) is the same as the socially and educationally backward classes referred to in Article 15(4). It is much wider. The accent in Article 16(4) is on social backwardness. Of course, social, educational and economic backwardness are closely inter-twined in the Indian context.

(f) The adequacy of representation of a particular class in the services under the State is a matter within the subjective satisfaction of the appropriate Government. The judicial scrutiny in that behalf is the same as in other matters within the subjective satisfaction of an authority.

(4) (a) A backward class of citizens cannot be identified only and exclusively with reference to economic criteria.

(b) It is, of course, permissible for the Government or other authority to identify a backward class of citizens on the basis of occupation-cum-income, without reference to caste, if it is so advised.

(5) There is no constitutional bar to classify the backward classes of citizens into backward and more backward categories.

(6) (a) & (b) The reservations contemplated in Clause (4) of Article 16 should not exceed 50%. While 50% shall be the rule, it is necessary not to put out of

consideration certain extraordinary situations inherent in the great diversity of this country and the people. It might happen that in far-flung and remote areas the population inhabiting those areas might, on account of their being out of the mainstream of national life and in view of the conditions peculiar to and characteristic of them need to be treated in a different way, some relaxation in this strict rule may become imperative. In doing so, extreme caution is to be exercised and a special case made out.

(c) The rule of 50% should be applied to each year. It cannot be related to the total strength of the class, category, service or cadre, as the case may be.

(d) Devadasan was wrongly decided and is accordingly over-ruled to the extent it is inconsistent with this judgment.

(7) Article 16(4) does not present provision for reservations in the matter of promotion. This rule shall, however, have only prospective operation and shall not affect the promotions already made, whether made on regular basis or on any other basis. We direct that our decision on this question shall operate only prospectively and shall not affect promotions already made, whether on temporary, officiating or regular/permanent basis. It is further directed that wherever reservations are already provided in the matter of promotion -- be it Central Services or State Services, or for that matter services under any corporation, authority or body falling under the definition of 'State' in Article 12 -- such reservations may continue in operation for a period of five years from this day. Within this period, it would be open to the appropriate authorities to revise, modify or re-issue the relevant rules to ensure the achievement of the objective of Article 16(4). If any authority thinks that for ensuring adequate representation of 'backward class of citizens' in any service, class or category, it is necessary to provide for direct recruitment therein, it shall be open to it do so. (Ahmadi, J, expresses no opinion on this question upholding the preliminary objection of Union of India.) It would not be impermissible for the State to extend concessions and relaxations to members of reserved categories in the matter of promotion without compromising the efficiency of the administration.

(8) While the rule of reservation cannot be called anti-meritism, there are certain services and posts to which it may not be advisable to apply the rule of reservation.

(9) The distinction made in the impugned Office Memorandum dated 25th September, 1991 between 'poorer sections' and others among the backward classes is not invalid, if the classification is understood and operated as based upon relative backwardness among the several classes identified as other backward classes, as explained in para 114 of this Judgment.

(10) The reservation of 10% of the posts in favour of 'other economically backward sections of the people who are not covered by any of the existing schemes of the reservation' made in the impugned office memorandum dated 25-9-1991 is constitutionally invalid and is accordingly struck down.

(11) There is no particular or special standard of judicial scrutiny applicable to matters arising under Article 16(4).

(12) The Government of India and the State Governments have the power to, and ought to, create a permanent mechanism -- in the nature of a Commission -- for examining requests of inclusion and complaints of over-inclusion or non-inclusion in the list of OBCs and to advise the Government, which advice shall ordinarily be binding upon the Government. Where, however, the Government does not accept the advice, it must record its reasons therefor.

(13) In view of the answers given by us herein and the directions issued herewith, it is not necessary to express any opinion on the correctness and adequacy of the exercise done by the Mandal Commission. It is equally unnecessary to send the matters back to the Constitution Bench of Five Judges.

1.10 For the sake of ready reference, we also record our answers to questions as framed by the counsel for the parties and set out in para 26. Our answers question-wise are:

(1) Article 16(4) is not an exception to Article 16(1). It is an instance of classification inherent in Article 16(1). Article 16(4) is exhaustive of the subject of reservation in favour of backward classes, though it may not be exhaustive of the very concept of reservation. Reservations for other classes can be provided under clause (1) of Article 16.

(2) The expression 'backward class' in Article 16(4) takes in 'Other Backward Classes', SCs, STs and may be some other backward classes as well. The accent in Article 16(4) is upon social backwardness. Social backwardness leads to

educational backwardness and economic backwardness. They are mutually contributory to each other and are intertwined with low occupations in the Indian society. A caste can be and quite often is a social class in India. Economic criterion cannot be the sole basis for determining the backward class of citizens contemplated by Article 16(4). The weaker sections referred to in Article 46 do include SEBCs referred to in Article 340 and covered by Article 16(4).

(3) Even under Article 16(1) reservations cannot be made on the basis of economic criteria alone.

(4) The reservations contemplated in Clause (4) of Article 16 should not exceed 50%. While 50% shall be the rule, it is necessary not to put out of consideration certain extraordinary situation inherent in the great diversity of this country and the people. It might happen that in far-flung and remote areas the population inhabiting those areas might, on account of their being out of the conditions peculiar to and characteristic of them need to be treated in a different way, some relaxation in this strict rule may become imperative. In doing so, extreme caution is to be exercised and a special case made out.

For applying this rule, the reservations should not exceed 50% of the appointments in a grade, cadre or service in any given year. Reservation can be made in a service or category only when the State is satisfied that representation of backward class of citizens therein is not adequate.

To the extent, Devadasan is inconsistent herewith, it is over-ruled.

(5) There is no constitutional bar to classification of backward classes into more backward and backward classes for the purposes of Article 16(4). The distinction should be on the basis of degrees of social backwardness. In case of such classification, however, it would be advisable -- nay, necessary -- to ensure equitable distribution amongst the various backward classes to avoid lumping so that one or two such classes do not eat away the entire quota leaving the other backward classes high and dry.

For excluding 'creamy layer', an economic criterion can be adopted as an indicium or measure of social advancement.

(6) A 'provision' under Article 16(4) can be made by an executive order. It is not necessary that it should be made by Parliament/Legislature.

(7) No special standard of judicial scrutiny can be predicated in matters arising under Article 16(4). It is not possible or necessary to say more than this under this question.

(8) Reservation of appointments or posts under Article 16(4) is confined to initial appointment only and cannot extend to providing reservation in the matter of promotion. We direct that our decision on this question shall operate only prospectively and shall not affect promotion already made, whether on temporary, officiating or regular/permanent basis. It is further directed that wherever reservations are already provided in the matter of promotion -- be it Central Services or State Services, or for that matter services under any corporation, authority or body falling under the definition of 'State' in Article 12 -- such reservations may continue in operation for a period of five years from this day. Within this period, it would be open to the appropriate authorities to revise, modify or re-issue the relevant rules to ensure the achievement of the objective of Article 16(4). If any authority thinks that for ensuring adequate representation of 'backward class of citizens' in any service, class or category, it is necessary to provide for direct recruitment therein, it shall be open to it to do so."

Effects of the ruling

1.11 The supreme Court ruling will have effect on a number of aspects of the situation of the Scheduled Castes and Scheduled Tribes in the matter of their representation at various levels in the Government services. In the first place, another segment of the disadvantaged class of society would enter the sphere of reservations and although such reservations have been in existence for a long time in some States of the South, it would be a new concept in the Central Government services and some States. It is felt in some quarters that percentage of reservation in Government jobs could form a plank for populist moves by appearing to help more and more sections of society on the basis of caste specially those who are vocal or who are perceived to be disadvantaged in the eyes of the Government of the time. Higher percentages of reservation may create a hue and cry from those advanced sections of population. On a different dimension this may adversely affect the general sympathy for SC & ST, as many people are unable to see the distinction and associate reservation with SC & ST only and feel that all the high reservation is for SC & ST. With the extension of the reservation benefits in recruitment there would soon be a demand for extending all the benefits enjoyed by SC & ST to OBC. While the Commission has no objection for the measures taken for the advancement of OBC, the Government must ensure that there is no dilution in the application and implementation of the safeguards provided for SC & ST under the Constitution or under any other provision made by the Government.

1.12 The dimension of the safeguards meant for SC & ST which is likely to be adversely affected by the Supreme Court judgment is the area of promotions. According to the ruling reservation in promotion shall cease to be operative after five years. Within the period of five years from the date of pronouncement of the judgment (16-11-92) it would be open to the appropriate authorities to revise, modify or reissue the relevant rules to ensure the achievement of the objective of Article 16 (4).

1.13 The Commission is happy to report that suitable measures have been taken to ensure that there is adequate representation of SC & ST at all levels ensuring reservations in promotions and by adding clause 16 (4A) to the Constitution. "Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which in the opinion of the State, are not adequately represented in the services under the State", thus nullifying the effect of the judgment and keeping continuity of reservations in promotions.

1.14 The country is passing through a phase of transformation. There are visible signs of the rich sections of the society becoming richer with every passing year and there are indications of general upward mobility. At the same time the deprived sections of the society, especially in the backward and remote areas, are finding their lives more miserable than before due to high prices and growing contrast in the standards of living. The Government sector seems to be shrinking or at least not growing as in the past and, therefore, its capacity to provide jobs is becoming limited. In this scenario it becomes imperative to think of new and effective planning strategy for the development of the weaker sections of the population. Perhaps a time has come, as an old saying goes to teach them how to fish rather than giving them a fish. Only that path would create a far reaching and lasting generation of wealth and capacity.

CHAPTER II

FUNCTIONING OF THE FIELD OFFICESBACKGROUND

The National Commission for Scheduled Castes and Scheduled Tribes has 17 field offices under its control which provide contact points with the State Governments and the field. They have been serving useful purpose and are of great assistance to the Commission in a multitude of its activities. It may be of interest to mention a brief history of the field organisation.

Set-up under the Special Officer

2.2 The Special Officer appointed under Article 338 was vested with the responsibility to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution and to submit a report to the President. The first Special Officer, designated as the Commissioner for Scheduled Castes & Scheduled Tribes, was appointed on 18-11-1950. For support at local levels, the Commissioner was provided with 17 regional offices. These field offices were headed by Assistant Commissioners for SC & ST who were redesignated as Deputy Commissioners in July 1965. These offices conducted field studies and undertook follow up action in the matter with the Governments of States/UTs under their jurisdiction.

Set-up under the Directorate General of Backward Classes Welfare

2.3 In the year 1967 a new organisation namely Directorate General of Backward Classes Welfare was set up in the then Department of Social Welfare under the Ministry of Education and Social Welfare. The above 17 field offices of the Commissioner's office were reorganised into 5 Zonal Offices in June 1967 and placed under the control of the newly created Director General of Backward Classes Welfare (DGBCW). Each Zonal Office was headed by a Zonal Director, and the erstwhile Regional Deputy Commissioner for SC & ST were redesignated as Deputy Directors B.C.W. and placed under the control of the Zonal Directors posted at Chandigarh (Northern Zone), Bhopal (Central Zone), Patna (Eastern Zone), Baroda (Western Zone) and Madras (Southern Zone). The Eastern Zone office had two branches at Bhubaneswar and Shillong. Later a branch office of the Central Zone was set up at Lucknow and in 1969 the Western Zone Office was shifted to Ahmedabad. This arrangement continued till November, 1978. During this period, these offices maintained Liaison between the Ministry of Education and Social Welfare and the State Governments and UT Administrations in the matter of SC & ST.

2.4 Government of India by resolution dated 21-7-1978 set up a Commission for SC & ST with its functions broadly corresponding with the functions entrusted to the then Special Officer. With effect from 1-12-1978 the above field offices of D.G.B.C.W. were transferred to the newly established Commission for SC & ST.

Set-up under Commission/National Commission for SC & ST

2.5 The officers of Zonal Directors B.C.W. and Deputy Directors B.C.W. under the D.G.B.C.W. were redesignated as Directors for SC and ST and Deputy Directors for SC and ST respectively. The Zonal set up was abolished by the Commission and 17 field offices having independent jurisdiction were set up. Since these field offices were also working for the then Commissioner for SC & ST, the offices of Director for SC & ST were redesignated as offices of Director for SC & ST and ex-officio Deputy Commissioner for SC & ST. To demarcate the functions of the Commission with that of the Commissioner for SC & ST, the Commission for SC & ST was renamed in September, 1987 as National Commission for SC & ST. The duties of the National Commission included research studies while functions and responsibility under Article 338 remained with the Special Officer. These 17 field offices were transferred to the National Commission so constituted alongwith liability to serve the Special Officer also with, however, priority for research studies relating to SC and ST. After the Commission became a Constitutional body the field offices came under the direct control of the Commission. However, they have continued to undertake the inspection of NGOs on behalf of the Ministry on specific request routed through the Commission's Secretariat.

Present set-up under National Commission

2.6 The location, jurisdiction and designation of the field offices of the Commission and the situation prevailing in each of them as on 31-3-94 is given below:

Table 1

Location	Designation of officer incharge as on 11-3-93	Jurisdiction	Remarks
Agartala	Dy. Director	Tripura	The post of Deputy Director was abolished on 12-3-93
Ahmedabad	Director	Gujarat, Dadra & Nagar Haveli	
Bangalore	Director	Karnataka	
Bhopal	Director	Madhya Pradesh	

Bhubaneswar	Director	Orissa	
Calcutta	Director	West Bengal, Sikkim, A&N Islands	
Chandigarh	Dy. Director	Punjab, Haryana, Chandigarh	The post of Deputy Director was aboli- shed on 12-3-92
Guwahati	Dy. Director	Assam	The post of Deputy Director stands transferred to Jaipur due to aboli- tion of the post of Director at Jaipur
Hyderabad	Director	Andhra Pradesh	The post of Director was abolished on 12-3-92
Jaipur	Director	Rajasthan	-do-
Lucknow	Director	Uttar Pradesh	
Madras	Director	Tamil Nadu Pondicherry	
Patna	Director	Bihar	The post of Director was abolished on 12-3-92
Pune	Director	Maharashtra, Goa, Daman & Diu	
Shillong	Director	Meghalaya, Arunachal Pradesh, Manipur, Mizoram, Nagaland	
Shimla	Dy. Director	Himachal Pradesh Jammu & Kashmir	The post of Deputy Director was abo- lished on 12-3-92
Thiruvananthapuram	Dy. Director	Kerala, Lakshadweep	

Work done in the field offices

2.7 In spite of the handicap of staff suffered by the field offices due to abolition of posts as mentioned elsewhere and even vacancies not being filled up, the field offices have been handling various types of work including

field enquiries in case of atrocities.

2.8 Various types of cases of complaints and representations and offences involving SC./ST. received and dealt with by the field offices during 1993-94 is given below:

Table 2

S.No.	Subject Matter	No. of complaints
1.	Service Safeguards	1776
2.	Land & Forest	251
3.	Education	101
4.	Housing	58
5.	Employment	16
6.	Economic Development Schemes	18
7.	Distributive agencies	3
8.	Atrocities and Untouchability	1309
9.	Other issues	450
Total		3982

2.9 The normal procedure adopted in dealing with these cases has been to first call for the facts from the concerned organisation or authorities. On receiving a reply if it was found that there was a violation of a safeguard or that any harassment or serious inconvenience was caused to the SC/ST the same was brought to the notice of the appropriate authorities for corrective steps.

2.10 Regarding cases of atrocity and untouchability, a number of which were reported in the press, reports were called through wireless/telegraphic communications. In serious cases of murder and rape the field offices conducted on-the-spot inquiries either at their own instance or on receiving instructions from the headquarters. During the year under report 38 such inquiries were conducted by the field offices.

Evaluation/inspection of projects run by NGOs on behalf of Ministry of Welfare

2.11 Earlier, the field offices were under the direct control of the Ministry of Social Welfare or Ministry of Home Affairs respectively as they were the administrative Ministries concerned at different times. They were required to act as representatives of the Ministry, besides being

the field representatives of the erstwhile Commissioner and later also of the Commission. Besides, other activities these field offices were conducting inspection/evaluation of ongoing welfare projects run by the NGOs with the assistance from the Government of India. They were also inspecting the NGOs who had applied for Government grants. This work imposed further pressure on already limited manpower and funds available for providing field support to this Commission and a lot of time and energy of the field offices was used up in this work. The Commission has requested the Ministry to make available adequate manpower to deal with matters relating to inspection of the NGOs.

2.12 During the year under report the evaluation/inspection of projects of NGOs conducted by field offices of the Commission is mentioned below:

Table 3

S.No.	Name of the Field Office	No. of inspections conducted during 1993-94.
1.	Dy. Director for SC & ST Agartala	-
2.	Director for SC & ST Ahmedabad	2
3.	Director for SC & ST Bangalore	9
4.	Director for SC & ST Bhopal	7
5.	Director for SC & ST Bhubaneswar	19
6.	Director for SC & ST Calcutta	30
7.	Dy. Director for SC & ST Chandigarh	2
8.	Dy. Director for SC & ST Guwahati	4
9.	Director for SC & ST Hyderabad	62
10.	Director for SC & ST Jaipur	10
11.	Director for SC & ST Lucknow	32

12.	Director for SC & ST Madras	18
13.	Director for SC & ST Patna	15
14.	Director for SC & ST Pune	2
15.	Director for SC & ST Shillong	14
16.	Dy.Director for SC & ST Shimla	1
17.	Dy.Director for SC & ST Thiruvanthapuram	2
Total		<u>229</u>

CHAPTER III

EDUCATIONAL SAFEGUARDS

The importance of educational development of the weaker sections of the society was recognised many decades ago by the Government of India and extended incentives and concessions to the Depressed Classes (now SCs and STs) vide the Government of India Act, 1935. After independence and on the adoption of the Constitution, safeguards were built into the administrative system through special provisions incorporated in the Constitution.

3.2 The Articles which contain educational safeguards for SC & ST are 29(1), 46, 15(4), and 350 A. Of these Articles 15(4) and 46 are more important in so far as educational development is concerned. Article 46 included among the Directive Principles of State Policy provides that the "State shall promote with special care the educational and economic interests of the weaker sections of the people, and particularly of those belonging to the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and from all forms of exploitation". This article did not give any power to the Government to take or adopt any specific measure for educational development of Scheduled Castes and Scheduled Tribes. Article 15 of the Constitution was, therefore, amended through the Constitution (First Amendment) Act, 1951 and Clause 4 added to it as Article 15(4). This empowered the State to make special provisions for the educational development of SC & ST and as a result the Government reserved seats for SC & ST in educational institutions including technical and professional institutions like medical and engineering colleges.

3.3 In response to the special obligation placed on the Government of India by Article 15(4) of the Constitution to make special provisions, the then Ministry of Education (now Ministry of Human Resource Development) for the first time addressed letter on 23-11-1954 to the Chief Secretaries of all the State Governments suggesting that 20% seats should be reserved for the Scheduled Castes and Scheduled Tribes in educational institutions with a provision of 5% relaxation in minimum qualifying marks for admission wherever required. This was slightly modified in April, 1964, where a distinct percentage of 15% for Scheduled Castes and 5% for Scheduled Tribes was laid down and was also made interchangeable. The Ministry of Health and Family Welfare also came forward and separately issued letters to the Vice-Chancellors of the Universities having Medical Faculties to reserve 15% seats for Scheduled Castes and 5% for Scheduled Tribes with 5% relaxation in minimum qualifying marks for admission to all post-graduate medical and Dental colleges.

3.4 The University Grants Commission had also issued guidelines to the Universities and colleges under their respective control to ensure that the Scheduled Caste and Scheduled Tribe students were allowed due concession in the matter of admission in all under graduate as well as post-graduate courses in the various streams. The percentage of reservation for Scheduled Tribes was revised upwards from 5% to 7.5% in 1982.

3.5 At present the following percentage are allowed for Scheduled Caste and Scheduled Tribe students in admission to the various undergraduate and post-graduate courses of generally technical, medical and other professional education in the Universities and colleges:

Scheduled Castes : 15%
Scheduled Tribes : 7½%

Reservation for SC & ST is also available in the allotment of seats in general hostels.

3.6 In addition to the above safeguards for admission in educational institutions and allotment of seats in general hostels, the Central and State Governments have initiated a number of other measures like award of various types of scholarships/stipends/opening of book banks for engineering and medical students, mid-day meals, books, stationery and uniforms etc., (for primary school students) for development of education among the Scheduled Castes and Scheduled Tribes.

GIRLS' HOSTELS FOR SC & ST

3.7 This scheme was started in the Third Five Year Plan with the intention to enable SC/ST girls students to pursue education at pre-matric and post-matric levels even at places away from their homes which they otherwise would not have been able to do for want of accommodation. This centrally sponsored scheme is implemented on 50:50 basis (100% in other UTs) for construction of hostel buildings, extension of existing hostels for SC/ST girls studying in middle and higher levels of education. Central assistance is also provided to the voluntary organisations Non-Govt./Private Organisations only for the extension of hostels provided the organisation is willing to cover 10% of the total expenditure and remaining 90% in such cases is shareable between the Central and State Govts. on 50:50 basis. The States/UTs have been permitted to utilise special central assistance to SCP for the repair and upkeep of the hostels. It is encouraging to note that costwise ceiling on the cost of construction of hostels have been removed w.e.f. the year 1994-95. Now the cost of construction is to be worked out on the basis of States/UTs PWD rates. The cost shall be worked out on the basis of the rates whichever is lower. In the capacity of 100 inmates, 10% of the seats are to be reserved for non-SC/ST students. Out of the VIII

Plan allocation of Rs.26.00 crores for hostels for SC girls an amount of Rs.6.00 crores was released to States/UTs for construction of 213 hostels with an inmate capacity of 19452. Similarly in case of ST girls hostels an amount of Rs.2.64 crores was released during 1993-94 for 52 hostels. It has been observed that in many cases the hostels are built at distant or inconvenient places. Proper location in the case of girls' hostels, is essential if we want to increase low occupancy. There are general complaints in the upkeep of these hostels. The maintenance of the hostels is the responsibility of the concerned States/UTs. They should make adequate provisions in the budget. This would also help in checking the high drop-out rate among SC/ST women.

BOYS HOSTELS FOR SC & ST

3.8 This centrally sponsored scheme started in 1989-90 is implemented on the same pattern as that of girls hostels mentioned earlier. Under the scheme of boys hostels for SC an amount of Rs.6.50 crores was released during 1993-94 to States/UTs to construct 101 hostels for 7020 inmates. According to the available information the Govt. of Andhra Pradesh, Karnataka, Gujarat, Bihar, Maharashtra, Tamil Nadu and Uttar Pradesh have shown keen interest in implementation of the scheme. The States like Madhya Pradesh and Rajasthan where literacy rate among SC is quite low should make full use of this scheme. Similarly an amount of Rs.2.70 crores was released under the scheme of Boys Hostels for ST during 1993-94 for 53 hostels to accommodate 2631 students.

ASHRAM SCHOOLS IN TSP AREA

3.9 Under this centrally sponsored scheme assistance is provided to the State Govts. on 50:50 sharing basis for construction of Ashram Schools, buildings, hostels and staff quarters. Expenditure on maintenance has to be met by the State Govts. from its own resources. For the UT Administrations the assistance is cent percent except for the maintenance which is the responsibility of the concerned UT Administration. The Scheme cover primary, secondary and senior secondary levels of education. During 1993-94 an amount of Rs.2.52 crores was sanctioned to Andhra Pradesh, Kerala, Maharashtra, Orissa, Tamil Nadu, Tripura and Uttar Pradesh for 64 including 41 second phase construction. This is a very useful scheme so far as educational development of Scheduled Tribes at primary, secondary and senior secondary level is concerned. All the concerned State/UT Administrations should come forward and take full advantage of this scheme.

**NATIONAL OVERSEAS SCHOLARSHIP FOR SC, ST AND OTHER STUDENTS
AND PASSAGE GRANTS FOR HIGHER STUDIES ABROAD**

3.10 Scholarships under this scheme are provided to meritorious SC/ST, Denotified, Nomadic and Semi-nomadic tribes, SC converts to other religion and the children of landless Agricultural Labourers/Traditional Artisans for advanced degree and post-doctoral studies abroad. Passage grants are also provided to students who are in receipt of a merit scholarship from a foreign Government or institution, in case such scholarships does not include the costs of passage. 30 National overseas scholarships and 9 passage grants are available each year. During the year 1993-94, 30 candidates were awarded scholarships. A total of 479 awardees had, so far, availed of the scholarship since inception of the scheme in 1954-55. An expenditure of Rs.260 lakhs was incurred in 1993-94.

UPGRADATION OF MERIT OF SC/ST STUDENTS

3.11 In the past several guidelines had been issued from time to time by the Ministry of Human Resource Development to all the Universities and State Govts. to reserve 15% and 7.5% seats in all educational and technical institutions for the SC & ST respectively. It has been our past experience that inspite of several efforts the representations of SC/ST in various technical/institutions had been very low. Keeping in view their deficiencies in these courses a scheme of upgradation of merit of SC/ST students was started in 1987-88 in the Ministry of Human Resource Development (Deptt. of Education). This scheme was transferred to the Ministry of Welfare in the middle of 1993-94. Those students who are selected under this scheme are provided extra coaching both remedial and special with a view to remove their social and educational deficiencies. They are placed in good residential schools where funds are provided for their coaching for a period of 4 years from class IX to Class XII. Remedial coaching is provided in the subjects viz. language, Maths. and Science whereas the special coaching is provided as per the requirement and competences to be attained by the student for passing the entry examination conducted by various professional institutions. Special coaching is provided by the experts while remedial coaching is given after school hours and continue throughout the stay of the student in the selected schools (Class IX to XII). To begin with it was proposed to cover 1000 students (670 SCs and 330 STs) under the scheme in 54 schools. The scheme is funded on 100% basis by the Central Govt. The out-lay for VIII Plan under the scheme is Rs.2.60 crores. In the year 1993-94 only five states viz., Arunachal Pradesh, Haryana, Himachal Pradesh, Orissa and Rajasthan availed of the grant under the scheme. The total grant released to these states during 1993-94 was 0.15 crores to benefit 334 SC/ST students against the out-lay of Rs.0.55 crores. This is a very good scheme and states should make full use of the grants. The reasons for slow

progress of the scheme may be due to the fact that the honorarium to the teachers and experts was fixed under the scheme in the year 1987-88 which is not adequate now. Similarly the rates of grants to meet the cost on books, stationery and fees boarding charges and pocket money was also inadequate. The Ministry of Welfare should consider the desirability of reviewing this scheme so that intake of SC/ST may be increased in the professional and technical courses.

ADMISSIONS OF SC/ST IN HIGHER EDUCATION WITH PARTICULAR REFERENCE TO CENTRAL UNIVERSITIES

3.12 It is a Constitutional obligation that the provisions of reservation for SC/ST as embodied in the Constitution of India and the policy of the Government of India framed in this regard from time to time for the upliftment of these communities is followed in the field of higher education also. With a view to meeting this requirement the UGC which is an apex body had been bringing to the notice of the University Colleges and the State Govts. the guidelines of the Government of India regarding reservation for SC/ST in the matter of Universities and Colleges. The UGC was set up in 1956 by an Act of Parliament for the promotion of University Education and determination and maintenance of standards in teaching, examination and research. This was necessary as the Constitution of India envisages that coordination of higher education is a central responsibility. The UGC functions as per provisions contained in its Act (UGC, Act 1956) and rules regulations framed as per the provisions in the Act.

3.13 In order to bring SC/ST to the main stream of life and see that they also get proper representation in different courses of higher education being provided by the Colleges/Universities including Central Universities UGC has been contributing towards social equity and upliftment of the underprivileged sections of society through special schemes as well as specific provisions for these sections within regular schemes.

3.14 Different percentage of reservations have been fixed for SC/ST in the Universities of different States in accordance with the percentages of SC/ST population to the total population of that state. The broad principal is that the reservation percentage for SC/ST should not be less than their population percentage. In the case of Central Universities, the percentage of reservation is 15% for SC and 7.5% for ST. It is implied that all reserved seats according to the percentage of reservation fixed should be filled up. There had been ample of guidelines issued by the UGC by following which it would have been possible to fulfil reservation. However to put the matter on still clearer and firmer basis the UGC issued revised guidelines for full implementation of reservation in admission. These guidelines were issued by the Additional Secretary vide

his d.o. letter F-8-1093(SCT) dated 15th June, 1993 to fully cooperate and help in bringing about complete success in implementation of reservation policy in the Universities. The revised guidelines are quite comprehensive and if implemented properly, would go a long way in fulfilling the aspirations of the SC/ST to get higher education in different streams.

3.15 In order to look at the actual representation of SC & ST students in different courses in the Central Universities, efforts were made to collect information from the UGC. The information pertains to six faculties i.e. Humanities and Social Sciences, Science including Agricultural Sciences, Engineering Technology, Medical Sciences, Professional Courses other than Medical and Engineering Technology and other Courses for the year 1992-93. The information tabulated and given at Table 1 gives a very dismal picture of the representations of SC & ST students in the above mentioned courses. Coursewise breakup in respect of Jamia Milia Islamia and Banaras Hindu University was not available and no information in respect of Indira Gandhi Open University was made available to the UGC. Based on the information made available by UGC it may be seen that representation of SCs in different courses ranged from 2.60% to 9.92% and in respect of STs it was 0.09% to 6.41%. Their representations is nowhere close to 15% and 7.5% as prescribed in case of Central Universities. This is a matter of serious concern and the concerned Universities, UGC and Ministry of Human Resources Development should try to find out the causes of poor representation of these communities in these courses. As mentioned earlier we shall have to ensure that intake at primary, middle and secondary levels is increased and at the same time the dropout and wastage at these levels are checked, and those promising among these communities are picked up and placed in the public schools and they should be provided extra coaching from lower levels so that they may compete with other students and their representation may also increase in different courses. As mentioned earlier the Centrally Sponsored scheme of upgradation of merit of SC/ST should be fully exploited in this regard. Besides the above mentioned scheme the concerned Universities should also ensure that remedial courses meant for SC/ST students are regularly continued and those universities which have not started these courses should start without any further loss of time.

Table 1
STATEMENT SHOWING REPRESENTATION OF SC/ST IN ADMISSIONS
TO VARIOUS COURSES IN UNIVERSITY TEACHING DEPARTMENTS
OF CENTRAL UNIVERSITIES DURING THE ACADEMIC YEAR 1992-93

S.No.	Name of the University and courses	Total number admitted including SC/ST	SC	%	ST	%	SC/ST	%age to total number
1	2	3	4	5	6	7	8	9
1.	<u>Allough Muslim University</u>							
	(i) Humanities and Social Sciences	2637	44	1.67	-	-	44	1.67
	(ii) Sciences including Agri. Sciences	2244	20	0.89	-	-	20	0.89
	(iii) Engineering Technology	958	11	1.15	-	-	11	1.15
	(iv) Medical Science	419	Break up not available					
	(v) Professional Courses other than Medical and Engg./Technology	367	-	-	-	-	-	-
	(vi) Other Courses	969	17	1.75	-	-	17	1.75
2.	<u>Banaras Hindu University</u>							
	(i) Humanities and Social Science		Break up not available					
	(ii) Sciences including Agri. Sciences		Break up not available					
	(iii) Engineering Technology		Break up not available					
	(iv) Medical Science		Break up not available					
	(v) Professional Courses other than Medical and Engg./Technology		Break up not available					
	(vi) Other Courses		Break up not available					
3.	<u>J.M.I., Okhla, New Delhi</u>							
	(i) Humanities and Social Science		Break up not available					
	(ii) Sciences including Agri. Sciences		Break up not available					
	(iii) Engineering Technology		Break up not available					
	(iv) Medical Science		Break up not available					
	(v) Professional Courses other than Medical and Engg./Technology		Break up not available					
	(vi) Other Courses		Break up not available					
4.	<u>J.N.U., New Delhi</u>							
	(i) Humanities and Social Science	3224	351	10.89	135	4.19	486	15.07
	(ii) Sciences including Agri. Sciences	465	47	10.11	10	2.15	57	12.26
	(iii) Engineering Technology		No such course					
	(iv) Medical Science		No such course					
	(v) Professional Courses other than Medical and Engg./Technology		No such course					
	(vi) Other Courses		No such course					

1	2	3	4	5	6	7	8	9
5. <u>NEHU University, Shillong</u>								
(i) Humanities and Social Science	2600	18	0.69	2008	77.23	2026	77.92	
(ii) Sciences including Agri. Sciences	531	15	2.82	209	39.36	224	42.18	
(iii) Engineering Technology			- NIL -					
(iv) Medical Science			- NIL -					
(v) Professional Courses other than Medical and Engg./Technology			- NIL -					
(vi) Other Courses			- NIL -					
6. <u>Pondicherry University</u>								
(i) Humanities and Social Science	91	6	6.59	-	-	6	6.59	
(ii) Sciences including Agri. Sciences	116	17	14.66	1	0.86	18	15.52	
(iii) Engineering Technology		No such course						
(iv) Medical Science		No such course						
(v) Professional Courses other than Medical and Engg./Technology	59	7	11.86	1	1.69	8	13.56	
(vi) Other Courses	107	11	10.28	1	0.93	12	11.21	
7. <u>University of Delhi</u>								
(i) Humanities and Social Science	30864	3458	11.20	417	1.35	3875	12.55	
(ii) Sciences including Agri. Sciences	6990	495	7.08	63	0.90	558	7.98	
(iii) Engineering Technology	640	72	11.25	15	2.34	87	13.59	
(iv) Medical Science	518	64	12.36	32	6.18	96	18.53	
(v) Professional Courses other than Medical and Engg./Technology	2350	366	15.57	57	2.43	423	18.00	
(vi) Other Courses		- NIL -						
8. <u>University of Hyderabad</u>								
(i) Humanities and Social Science	542	90	16.61	20	3.69	110	20.30	
(ii) Sciences including Agri. Sciences	302	48	15.89	5	1.66	53	17.55	
(iii) Engineering Technology	50	8	16.00	4	8.00	12	24.00	
(iv) Medical Science		No such course						
(v) Professional Courses other than Medical and Engg./Technology		No faculty						
(vi) Other Courses		No faculty						
9. <u>Vivek Bharti University</u>								
(i) Humanities and Social Science	420	37	8.31	8	1.90	45	10.71	
(ii) Sciences including Agri. Sciences	283	43	15.19	5	1.77	48	16.96	
(iii) Engineering Technology		No such course						
(iv) Medical Science		No such course						
(v) Professional Courses other than Medical and Engg./Technology	404	47	11.63	4	0.99	51	12.52	
(vi) Other Courses	-	-	-	-	-	-	-	
Total								
(i) Humanities and social Science	40378	4004	9.92	2588	6.41	6592	16.33	
(ii) Sciences including Agri. Sciences	10931	685	6.27	293	2.68	978	8.95	
(iii) Engineering Technology	1648	91	5.52	19	1.15	110	6.67	
(iv) Medical Science	937	64	6.93	32	3.42	96	10.25	
(v) Professional Courses other than Medical and Engg./Technology	3180	420	13.21	62	1.95	482	15.16	
(vi) Other Courses	1076	28	2.60	1	0.09	29	2.70	

Note: Excluding Indira Gandhi Open University.

COMPLAINTS RECEIVED IN THE COMMISSION

3.16 During the year under report 108 complaints/representations relating to various educational matters were received in the Commission's Headquarters. Twenty of these representations were filed because these were addressed to authorities other than the Commission and only their copies were endorsed to the Commission. Action was taken in 78 cases while 10 were filed as on examination it was found that those cases did not merit any intervention by the Commission. The latter did not prima facie contain violation of any safeguards or rights but related to such matters as request for holding a technical workshop on work culture, alleged conspiracy of invigilators of an examination centre to falsely implicate an SC student for using unfair means, allegations of corruption against a Deputy Inspector of Schools of Itawa in UP, request for opening a school in a village in UP, introducing identical syllabus in all schools, refund of tuition fee from the school of Correspondence Courses in Delhi, request for holding a State level workshop on research priorities in the field of Human Resources Development in Rajasthan, request for only one time requirement to produce a caste certificate at the time of first admission in school etc.

3.17 Inspite of the best intentions of Government at the Centre and the States to provide a number of safeguards both Constitutional and otherwise, to bring about rapid educational development of Scheduled Castes and Scheduled Tribes, there have been allegations of intentional deprivation, non-implementation of various measures and violation of safeguards by the concerned implementing authorities at various levels. This Commission has been receiving complaints and representations from individuals as well as associations/organisations relating to alleged violation of various safeguards. During the year under report 110 complaints/representations relating to various educational matters were received in the Commission's headquarter.

3.18 Broad Category of cases are as follows:

Table 2

S.No.	Subject Matter	No. of cases
1	2	3
1.	Denial of admission in schools and colleges of general education	17
2.	Denial of admission in professional colleges/courses like medical, engineering and others	24
3.	Non payment of stipends/scholarships	6

1	2	3
4.	Request for financial assistance/opening of new schools taking over of provincial schools by Gov ./provision of adequate educational/hostel facilities, etc	11
5.	Harassment of SC/ST teachers/students by upper castes	15
6.	Discrimination in awarding marks in examination/deliberate failing of SC/ST students on caste considerations	2
7.	Request for covering of eligibility criteria for admission in professional colleges	2
8.	Reduction of reservation percentage for admission to medical colleges in Goa	1
9.	Cases which did not merit Commission's intervention	10
10.	Others	22
Total		110

3.19 One case prima facie appeared to be that of violation of reservation safeguards provided for SC/ST students for admission in educational institutions. A reply was still awaited from the concerned authorities at the time of writing of this report and the final view would be taken on receipt of the reply.

The case, in brief, is as follows:

3.20 A complaint dated nil in Hindi from one Shri Nathu Lal Nahar, Arjun Niwas, 21 Nandpuri, 22 Godam, Jaipur was received in the Commission Headquarters on 19-8-1993. It was alleged that his son, Anil Kumar Nahar of class 6 of Adarsh Vidya Mandir, Jaipur was allotted a seat for admission in the St.Xavior School, Jaipur under the State Govts. scheme of special Pre-matric Scholarship to the students belonging to SC/ST and Nomadic Tribes of the State but the Principal of the school refused admission to SC & ST students. The Deputy Director (Secondary) of the Directorate of Primary and Secondary Education, Govt. of Rajasthan, Bikaner had sent the name of this boy to the principal of St.Xaviors School vide his order dated 20-7-93. An examination of this case showed that the Principal of St.Xaviors School did not refuse admission on any caste considerations, but due to non-payment of scholarship amounting to Rs.59,219/- of SC & ST students studying in his school by the State Govt. The School authorities

had been writing to the Director, Education (Primary and Secondary), Bikaner since March 1993 and in his letter dated 7-7-1993 the Principal had made it very clear in no uncertain terms that as no payment had been made to the school in respect of SC & ST students already studying there and even no reason was mentioned by the department for that, he had no alternative but to ask the parents of SC & ST children to pay regular fees or to get them transferred to government aided institutions. He had made a special endorsement in his own handwriting on the body of the above letter to the following effect:

"Please let me know if scholarship amount will be sanctioned. We can admit any new student on SC/ST scholarship only after getting the old amount cleared."

3.21 It will not be proper to hold the school authorities responsible for this and charge them with the violation of safeguards as it appeared to the State Government which had failed to implement its own orders. The Commission, therefore, took up this case with the Director of Education (Primary & Secondary), Government of Rajasthan on 1-3-94 but no reply has been received yet.

3.22 In one case the complainant was a Scheduled Caste student of Palwal (Haryana) who passed the entrance examination for admission to Class VI of the Jawahar Navodaya Vidyalaya, Chandpur, district Faridabad in Haryana, run by the NCERT was refused admission on the ground that his earlier school was not recognised. The Commission took up the matter with the Principal and the student's father informed us that the admission had been granted to his son.

3.23 In another case the request of a Scheduled Caste girl for transfer from one Kendriya Vidyalaya to another in Maharashtra had been granted when the Commission intervened and wrote to the Assistant Commissioner, K.V. Sangathan, Bombay region.

3.24 During the year under report the Commission's Headquarter received 26 cases relating to alleged violation of reservation safeguards for admission of Scheduled Caste/Scheduled Tribe students in Medical/Engineering courses and other professional courses like pharmacy, Education, Physical Education and Ayurvedic etc. These cases also included those where admission had not been denied but a request had been made to allot a seat for admission out of reservation quota. There was one representation from Goa alleging that the State Government had reduced reservation quota for Scheduled Caste/Scheduled Tribe for admission in the medical colleges in Goa. The representationists have filed a suit in the Bombay High Court and made this Commission as one of the respondents. The case is sub-judice.

3.25 The Commission received a joint representation from some of the aggrieved SC/ST students of Madhya Pradesh who, even after having duly qualified the PMT for admission to the various medical courses in the State against seats reserved for them were deprived of admission due to some general category students having obtained a stay order from the court.

3.26 In some other cases relating to admission in medical colleges, there was a general representation from an organisation alleging irregularities in admission in the medical colleges of Uttar Pradesh. The matter was referred to the Health Departments of the State Government. But no reply has so far been received. In this regard however, there was no specific case cited but a general allegation. In another case a request had been made to the Commission to get the candidate migrated from the medical college to another in Madhya Pradesh. The case was forwarded to the concerned authorities for sympathetic consideration. In both the cases received from Madhya Pradesh, the parents of Scheduled Caste students desirous of seeking admission in the medical colleges requested the Commission to allot seats out of reserved quota for admission of children of Central Government employees transferred from other States to Madhya Pradesh in the State's medical colleges. Both the representationists were informed that reservation benefits could be availed of by them only in the State to which they belonged. In any case the Commission does not make any allotments.

3.27 It will be observed that although there was no deprivation of rights or violation of any safeguards in the above cases yet the children of transferable Central Government employees or those serving in the Central/State Government establishments in States other than their own State were at a disadvantage. In the States where there are no Central Government professional or even general educational institutions, admission of the Central Government employees' children creates a lot of difficulties for them in so far as availing of the benefits of reservation are concerned. Perhaps in almost all the medical/engineering institutions under the control of State Governments one of the main eligibility criteria is that the candidate should have passed the qualifying examination (10+2) from the recognised institutions located in that particular State. This makes it all the more difficult for children of transferable Central Govt. employees to seek admission even in their own home State because in majority of the cases they pass the qualifying examination (10+2) from the institutions located in the States where their parents were posted during that period. Children of such parents face great difficulties in getting admission in the medical/engineering colleges and remain deprived of the reservation benefits. In other States also they cannot avail of the reservation benefit because these can be availed of only in one's own State.

3.28 The Commission, therefore, feels that there is an urgent need to review the prevailing rules/instructions in this regard. The Government of India may consider suitably of relaxing of the rules to a limited extent only for the purposes of allowing reservation benefits to the above mentioned category of cases. One way of doing this is to request all the State Governments having medical/engineering colleges to keep aside a certain percentage of reserved quota seats for children of transferable Central Government employees serving in the States other than their own on a reciprocal basis. In case there are no such candidates to fill up these seats, the same may be given to Scheduled Caste/Scheduled Tribe students of the concerned State. Four cases alleging denial of admission to Scheduled Caste and Scheduled Tribe candidates in the various medical colleges against reserved seats were received, one each from Haryana, Uttar Pradesh, Karnataka and Tamil Nadu.

3.29 A case of alleged deprivation of rights of SC/ST students relating to admission in the post graduate courses of All India Institute of Medical Sciences (AIIMS), New Delhi was received in the Commission's Headquarter in December 1993. A copy of a representation dated 21-12-93 addressed to the Union Minister of Health and President, AIIMS, New Delhi was personally handed over by a deputation of Scheduled Caste/Scheduled Tribe graduates of the Institute in this Commission on 22-12-93. It was alleged that the authorities of the AIIMS were discriminating against SC/ST graduates of the Institute by denying them admission in the post graduate courses out of the 33% quota reserved for the Institute's graduates. It was represented that the existing eligibility criteria for appearing in the entrance test for admission to post graduate courses of the AIIMS for its own graduates be reconsidered as it was prejudicial to the interests of Scheduled Caste/Scheduled Tribe students. According to the representationists "those AIIMS SC/ST graduates who took more than two attempts to pass their MBBS Examination stand ineligible to appear in P.G.Exams. conducted by AIIMS and all other universities. This clearly jeopardizes the career of AIIMS graduates belonging to minority group". As on illustration of their contention they cited the result of PG Entrance Examination held in November 1993 in which 10 AIIMS SC/ST graduates belonging to three different batches who were eligible to appear in the examination were denied even a single seat. They demanded that:

- (i) All AIIMS SC/ST candidates should be considered for AIIMS PG Entrance Examination irrespective of the number of attempts during MBBS Exam. w.e.f. May 1994 PG Examination
- (ii) Separate PG seats be reserved for AIIMS SC/ST graduates

3.30 There has been a wide coverage of this case in the National dailies during December 1993 and January 1994 as it had taken the shape of an agitation. The cause of SC/ST graduates of the AIIMS was also taken up by various other forums like the People's Union for Civil Liberties, Delhi Medicos and Scientists' Front and the Forum for Rights and Equality, who all wrote in detail to this Commission about alleged injustice being done to the SC/ST graduates of the Institute over the years. They requested the Commission to intervene.

3.31 The issue involved in this case revolves round the eligibility criteria for competing in the entrance test for admission to the various post graduate courses of the Institute. The AIIMS has laid down eligibility criteria and a method of selection for graduates of the Institute for appearing in a written test for admission to the post graduate courses. According to the rules, 33% of the total number of sanctioned seats for various post graduate courses of the AIIMS in any year are reserved for the graduates of the Institute while the remaining 67% are filled up from eligible candidates on all India basis. The eligibility criteria are:

- (i) The candidate must possess the MBBS degree of the AIIMS or of a University recognised by the Institute for the purpose.
- (ii) The candidate must have completed the required period of pre-registration internship a rotating housemanship in a recognised hospital.
- (iii) The candidate should have obtained 55% (50% for SC/ST) marks in aggregate in all the MBBS examinations and have completed at least one year's internship.
- (iv) Should not have more than 2 failures in MBBS examinations.
- (v) A deduction of one percent and three percent respectively shall be made for having failed once or twice in any of the MBBS examinations for calculating the percentage of marks for eligibility determination.

3.32 According to the practice followed by the AIIMS authorities, the SC/ST graduates of the Institute are not given any separate share in the 33% of the total seats in various post graduate courses reserved for the Institute's graduates. Instead, the SC/ST graduates of the Institute are required to compete with the all India SC/ST graduates.

3.33 The Commission took up the matter with the Union Ministry of Health & Family Welfare for details in this

regard and simultaneously wrote to the Director of the AIIMS for facts, giving details of total number of seats and those filled up against reserved quota, for the last three years. The Ministry of Health & Family Welfare did not send a reply. However, the authorities of the AIIMS informed the Commission that according to an agreement reached between the Government and the students union in 1978 and subsequently as per the clarification provided to them in May 1982, the Institute's graduates who belonged to Scheduled Caste/Scheduled Tribe categories were being considered alongwith other candidates belonging to these categories. This practice was being followed till July 1993. In view of the agitation started by SC/ST graduates of the Institute demanding their due share in the quota of seats reserved for the graduates of the Institute, the Union Ministry of Health & Family Welfare conveyed to the Institute Orders dated 31.12.93 of the President of the AIIMS (Union Health Minister) to the following effect:

"It must be ensured that SC/ST students who qualify for admission to the PG course of the Institute on their own merit are admitted from the current year itself from the quota of seats reserved for the college students".

3.34 The Institute authorities implemented the orders of the Health Minister by revising the merit list prepared for admission and offering the requisite number of seats to SC/ST graduates of the Institute. Information furnished by the Institute in respect of admission position for the past three years (1991, 1992 & 1993) does not indicate any short representation of SC/ST.

3.35 The Commission feels that in order to avoid such controversies in future relating to admission in the various courses, the Ministry of Health & Family Welfare may review the existing policies/guidelines and issue fresh unambiguous instructions in this regard. Care should be taken to ensure that the interests of SC/ST candidates are not jeopardised at any stage. If necessary no. of seats reserved for SC/ST be specifically mentioned in the advertisement for admission test.

3.36 The Commission received 6 complaints relating to denial of admission in the engineering colleges in various States. All these cases were taken up with the concerned authorities. One case related to alleged denial of admission of an SC student of Delhi in B.Tech (Part-time) course in the Delhi College of Engineering, admission was granted on Commission's intervention in the case.

3.37 General Secretary of Sant Ravidas Ashram Samiti, Shahdara sent a representation dated 1-12-93 to the Commission alleging gross injustice done to the SC/ST students by the Directorate of Training and Technical Education, Govt. of the National Capital Territory of Delhi. It was alleged that for admission to various technical diploma courses during 1993 the Delhi Govt. authorities did not mention any percentage of marks as no eligibility criteria in their advertisements issued on 20-7-93, 26-10-93 and 19-11-93 for the purpose. The Administration had fixed 24-11-93 as the last date for admission and payment of fees, etc. Some SC/ST students had already submitted their application forms in response to the advertisements issued prior to 23-11-93. It was suddenly on 23-11-93 that the minimum percentage of marks required for admission to various diploma courses was notified as 50 in the qualifying examination. When the SC/ST students with 49.5% marks went for admission on 24-11-93, they were refused admission declaring them ineligible as they did not secure 50% marks.

3.38 While discussing the difficulties being faced in getting admission in medical colleges by the children of transferable SC/ST employees or those working in Central Government Offices/establishments located in States other than their parent States earlier in this Chapter it was suggested that the Govt. of India may review the existing instruction and evolve suitable measures to overcome the genuine problems of the children of transferable parents. The measures to be adopted by the Government should cover all professional and other technical courses.

3.39 Four cases relating to alleged denial of admission to SC/ST candidates in other professional courses like Arts College, Degree/Diploma in Education and Diploma in Pharmacy, etc., were received during the year 1993-94.

3.40 A representation dated 17-8-93, was received from one Pramod Kumar, a Scheduled Caste student from Delhi alleging that he was denied a seat out of reserved quota in the Government College of Arts, Chandigarh. He claimed that there should have been 20% reservation for SC/ST (15% for SC and 5% for ST) and since there were no ST candidates he should have been accommodated against ST quota as these were interchangeable between SC and ST. The matter was taken up with the Chandigarh Administration demi-officially by the Chairman on 23-8-93. The Principal of the Government College of Arts, Chandigarh sent a reply on 25-1-94 clarifying the position. It was explained that out of a total intake capacity of 64 seats in various disciplines, only 40% were meant for general pool and 60% for the Union Territory Pool. Disciplinewise, out of 18 seats in the Applied Art Course, were meant to be filled from General Pool Candidates. According

to 15% reservation for SCs, only one seat was reserved for Scheduled Castes in this discipline. This seat was offered to one Shri Manjinder Singh (SC) whose name was higher than Shri Pramod Kumar in the merit list. Shri Manjinder Singh joined the course and, it was, therefore not possible to accommodate the applicant.

3.41 A case of prima facie violation of reservation safeguards was received from a Scheduled Caste (Mazhabi) girl from Punjab in October 1993. She had alleged that even though she had qualified in the Joint Entrance Test for admission to B.Ed with 32% marks she had been denied admission. She had further mentioned that according to Punjab Government orders 50% of all reserved seat for Scheduled Castes are to be given to Mashabi community. The matter was taken up with the concerned authorities in the Punjab Education Department in November 1993 and was followed up till July 1994.

3.42 During the year under report, six complaints alleging non-payment/late disbursement of stipends/scholarships/fellowships and allied matters were received in the Headquarter. Two SC students belonging to one particular State had claimed pre-matric stipend from another State where they were studying and their community was not listed as a Scheduled Caste there. In one case, the student had been paid stipend even before the Commission took up the matter. In the remaining cases there appeared to be violation of the students right to get scholarship. One of these cases related to non-grant of long-term fellowship to a Scheduled Tribe Lecturer of Maharashtra by the UGC for doing Ph.D. The other two cases related to non-disbursement of scholarship to Scheduled Caste engineering students and another from a Scheduled Caste Defence Employee from Uttar Pradesh whose son was studying in a college in Haryana. All these cases were taken up with the concerned authorities but no reply has been received so far inspite of regular follow up. Details of two of these cases are mentioned below.

3.43 The first case was a general complaint from an advocate of Rohtak alleging that the College authorities of Engineering College, Murthal district Sonapat in Haryana were not distributing scholarship forms to the Scheduled Caste students in time and were also allegedly not putting up requisite information in this regard on the notice board. As a result of this many SC students were either deprived of the scholarship or if at all paid, the amount was short. The complainant did not cite any specific case either of deprivation of non-payment/short payment of scholarship. A communication was sent to the concerned Principal but he had not replied till the time of writing this paragraph.

3.44 The other was a grievance case of a Scheduled Caste Central Government employee from Uttar Pradesh whose son has been studying in B.Sc. course in Gurunanak Khalsa College, Yamunanagar under Kurukshetra University in Haryana from the first year B.Sc. It was complained that his son was neither granted any fee concession nor was he given any scholarship ever since he joined the College in 1991. According to the complainant the College authorities told him that his son would be given the scholarship if the same was received from the Government of Uttar Pradesh. He has further alleged that he has been running from pillar to post from 1992 onwards and writing about it to all concerned but none took any action. He also met the education department officers in Lucknow regarding this case but nothing happened. It appears that the College authorities informed him correctly. As per the scheme, post-matric scholarships of students belonging to one State but studying in the educational institution in another State are sanctioned and remitted by the parent State to the educational institution where the student is studying, for its disbursement.

3.45 However, this appears to be a case of deprivation of benefits to a Scheduled Caste boy under the Government of India Post-matric Scholarship Scheme, which was his rightful due for 3 years. The Commission recommends that the Union Ministry of Welfare may impress upon the State Governments to streamline the working of this most useful educational scheme so that disbursements to the beneficiaries are made in time.

3.46 Besides the above mentioned specific cases relating to alleged violation of reservation safeguards and deprivation of other rights/privileges available to SC & ST students, 28 cases on miscellaneous issues were received during the year 1993-94. Of these 11 related to requests for financial assistance for pursuing studies, opening of new schools in certain areas and for providing adequate facilities in the schools located in areas predominantly inhabited by Scheduled Castes and Scheduled Tribes. There were 15 cases where allegations had been made regarding harassment of SC/ST students and teachers by general category students and teachers in various educational institutions. In another two cases allegations related to discrimination by upper caste teachers in awarding mark in examination and deliberate attempt to fail SC/ST students.

3.47 The organisations, viz., Scheduled Castes/Scheduled Tribes Students' Welfare Association and United Dalit Students Forum of Jawahar Lal Nehru University represented to this Commission for lowering of eligibility criteria for appearing in All India Competitive Examination for Junior Research Fellowship/Lecturership conducted by the U.G.C. Details of this case are mentioned below:-

3.48 Two separate representations dated 23-2-94 and 26-4-94 were received from the two students organisations mentioned above. According to the representation the interests of SC/ST candidates aspiring for Junior Research Fellowship/Lecturership have been adversely affected by the recent change in the policy of U.G.C. for selection to these Fellowships/Posts. The new policy lays down that every student whether belonging to SC/ST or general category will be awarded a Junior Research Fellowship/Lecturership through a qualifying National Eligibility Test conducted by the U.G.C. For this only those candidates who have 55% or more marks in their post-graduation are eligible. There is neither any relaxation nor any reservation for SC/ST candidates. The students have demanded that there should be 22.5% reservation for all Junior Research Fellowship/Lecturership and the minimum eligibility criteria for SC/ST should be the minimum pass percentage in post graduation and not 55%. The Chairman of this Commission took up the matter with the union Minister for Human Resource Development impressing upon him to ensure that interests of SC/ST were adequately safeguarded and that there was no attempt to dilute representation of SC/ST. The Minister in his reply informed that the U.G.C. had revised the eligibility criteria keeping in view the revised pay scales of lecturers as recommended by the Fourth Pay Commission which were much higher than many other Government departments. He argued that the step was taken to ensure that the best talent was attracted to the teaching profession. He also indicated that since the Government had already set up the Fifth Pay Commission suitable policy changes in the eligibility criteria may be considered after the new pay scales were announced. The University Grants Commission in their reply to the Ministry of Human Resource Development had also mentioned that the Reservation/Implementation Sub-Committee in their report had recommended that all the candidates who passes second class masters degree shall be eligible to appear in the NET. As regards provision of 15% and 7½% reservation for SC & ST respectively the matter was under consideration.

3.49 The Commission would like to point out the constitutional obligation of Central/All State Governments to consult this Commission on all major policy issues affecting the interests of SC/ST. In the present case the U.G.C. took a policy decision of changing the eligibility criteria for Junior Research Fellowships/Lecturerships and in the process, adversely affected the interests of SC/ST without consulting this Commission.

3.50 The U.G.C. has to reconsider the criteria for Junior Research Fellowships/Lecturerships to safeguard the interests of SC/ST candidates.

CHAPTER IV

**ECONOMIC DEVELOPMENT OF SCHEDULED CASTES
AND SCHEDULED TRIBES**

The Scheduled Castes and Scheduled Tribes who constitute the weakest sections of our society have been subjected to economic exploitation and social discrimination for ages. This unfortunate situation has been largely responsible for their abject poverty, illiteracy and overall backwardness. Due to social disabilities arising from the practice of untouchability against the Scheduled Castes and geographical isolation in the case of the Scheduled Tribes, they have been alienated from the rest of the community as a result of which they have been forced to lead a life of economic and social subjugation. An idea of the enormity of the problems facing SC and ST can be gathered from the demographic profile which indicates that these two unprivileged groups constitute about one-fourth of the total population of the country. The 1991 Census of India revealed that the population of SC & ST was 13.82 crores and 6.78 crores respectively accounting for 16.48% and 8.08% of the total population of the country. Further, the census data also revealed that SC & ST children between the ages of 0-6 years constituted 19.63% and 20.18% respectively of the total SC & ST population. This means that about one-fifth of their population belongs to this vulnerable and formative age group. It may, therefore, be advisable for the planners to focus their attention particularly on this age-group and provide for larger investments in the areas of education, nutrition, health, etc., in order to prepare them better to face challenges in the subsequent years as a part of the mainstream Indians.

4.2 Despite the increased pace of urbanisation, India continues to be predominantly rural in character especially in the context of SC & ST. Out of the total SC & ST population of the country, as much as 81.28% and 92.61% respectively live in rural areas. Considering the fact that a majority of the SC & ST population live in rural areas where incidence of poverty is more acute, the thrust of planning should be directed towards this significant rural section of their population.

4.3 According to the 1991 Census 77.11% and 90.03% SC&ST workers were engaged in the primary sector of the economy, 9.83% and 3.85% respectively in the secondary sector and 13.06% and 6.12% respectively in the tertiary sector. In terms of work participation rate, the SC & ST compare favourably with the total population. However, considering the extent of poverty amongst SC & ST, it becomes imperative that the occupations in which they are engaged generate insufficient income. The other conspicuous feature with

relation to the occupational classification is that 49.06% of the main workers among SC and 32.69% among ST were engaged as agricultural labourers. Another interesting fact comes to light on analysing the data relating to distribution of working population by sex. While the work participation rates of male SC & ST workers are higher (51.48% for SC and 54.74% for ST) compared to female participation rates (25.98% for SC and 43.71% for ST), the SC & ST female participation rates are significantly higher than that of their counterpart in the total population. This difference is even more conspicuous in respect of ST female workers. This only confirms that the SC and ST women have to work in greater numbers because of economic compulsions.

4.4 Eradication of poverty and raising the standard of living of SC & ST persons have been the most important objectives of the country's economic planning. In the initial years of our planning it was presumed that the economic growth to be realised through planned efforts would by itself ensure that benefits would reach the poorer sections of the population which is commonly known as the 'trickling down' or percolation theory. However, this was not to be and from experience the planners realised that unless specific plans/programmes/schemes were formulated in respect of the poorer sections of the society, especially SC & ST, the main objective of eradication of poverty through economic planning would not be achieved. It was also realised that mere economic growth need not lead to better standard of living for all sections of the population, especially SC and ST, which constitute the bulk of the poorer sections of our population.

Tribal Sub-Plan

4.5 Against the background of the above realisation by the planners, the Tribal Sub-Plan was formulated in the context of welfare and development of ST and the strategy was adopted during the Fifth Five Year Plan. The Plan basically aimed at not only the economic development of ST but also their protection from various kinds of exploitation. At present the Tribal Sub-Plan is being implemented in 18 States and two Union Territories, viz., Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, West Bengal, Andaman & Nicobar Islands and Daman & Diu. Keeping in view the fact that the ST are by and large concentrated in pockets, the strategy of the TSP was implementing the plan by identifying such pockets of tribal concentrations. Presently 194 Integrated Tribal Development Projects (ITDPs) have been launched and each of these has a contiguous geographical area of a Block or Tahsil where more than half of the population belong to the ST. In addition to this, 250 Modified Area Development Approach (MADA) pockets have been selected in the country

in which population in a contiguous area is at least 10,000 and 50% of them are tribals. Seventyfive Primitive Tribal Groups (PTGs) have also been identified for the purpose of their alround development.

4.6 One of the positive gains since the adoption of the TSP strategy has been that it has ensured separate financial outlays for utilisation on schemes and programmes which exclusively benefit the ST. The earmarking of funds has also contributed significantly to increasing the size of the plan in terms of financial resources. The achievements can be appreciated from the fact that while during the Fifth Plan period the size of the TSP of the States implementing them was Rs.759.33 crores accounting for only 4.29% of the total State Plan, it increased to Rs.3019.74 crores in 1992-93 (about four fold) and represents 12.27% of the total State Plan size. The following table shows the flow of funds from State Plans to Tribal Sub-Plans during the Fifth Five Year Plan onwards:

Table 1

Flow of funds from State Plan to Tribal Sub-Plan

(Rs. in crores)			
Plan Period	State Plan	Tribal Sub-Plan	%age flow
Fifth Plan	17692.48	759.33	4.29
Sixth Plan	42390.60	3720.36	8.78
Seventh Plan	73953.35	7076.81	9.57
1990-91	20818.64	1991.98	9.57
1991-92	24377.93	2504.64	10.27
1992-93	24611.65	3019.74	12.27
1993-94	30375.90	2887.82	9.51

Source: Annual Report 1994-95, Ministry of Welfare

4.7 It may be seen from the above table that since the Fifth Plan the increasing trend in terms of financial allocation as also in terms of percentage flow to the TSP continued till the first year of the Eighth Five Year Plan. However, the Commission regrets to note that in the Annual Plan of 1993-94 not only the size of the TSP was reduced in terms of financial allocation but the percentage flow from the State Plan also declined considerably from the previous years. The Commission feels that this is not a desirable situation, specially considering the fact that the State Plan size in 1993-94 recorded an increase over the 1992-93 Annual Plan. In its First Annual Report the Commission had recommended "that all States/UTs should make provisions in the divisible component of the Plan outlay for the TSP not only in proportion to the ST population but in a higher proportion than their population percentage in view of their extreme backwardness and their having

been deprived of developmental benefits in the past." The Commission strongly reiterates its earlier recommendation and is of the view that the level of achievement of the previous year should not only be sustained but raised in the subsequent Plans. The Ministry of Welfare, being the nodal Ministry for the development of Tribals in the country, should urge the State Governments/U.T. Administration to step up allocations under the TSP.

4.8 The Statewise flow of funds from State Plans to TSP during 1993-94 may be seen in the following table:

Table 2
Flow of funds from State Plan to TSP during 1993-94

(Rs. in crores)

S.No.	State/UT	%age of ST population	State Plan	Tribal Sub-Plan	%age Flow
1.	Andhra Pradesh	6.31	1851.00	86.47	4.67
2.	Assam	12.82	580.18	102.85	17.73
3.	Bihar	7.66	2315.00	680.21	29.38
4.	Gujarat	14.92	2137.00	217.77	10.19
5.	Himachal Pradesh	4.22	550.00	49.50	9.00
6.	Jammu & Kashmir	NA	880.00	49.92	5.67
7.	Karnataka	4.26	3025.00	39.94	1.32
8.	Kerala	1.10	1000.00	10.37	1.04
9.	Madhya Pradesh	23.27	2400.00	535.05	22.29
10.	Maharashtra	9.27	3804.00	265.00	6.97
11.	Manipur	34.41	235.13	100.73	42.84
12.	Orissa	22.21	1450.00	423.66	29.22
13.	Rajasthan	12.44	1700.00	143.96	8.47
14.	Sikkim	22.36	105.88	17.21	16.25
15.	Tamil Nadu	1.03	2101.00	22.48	1.07
16.	Tripura	30.95	310.00	114.17	36.82
17.	Uttar Pradesh	0.21	4200.50	2.03	0.05
18.	West Bengal	5.59	1550.00	75.33	4.86
19.	A & N Islands	9.54	156.50	22.60	14.44
20.	Daman & Diu	11.54	24.70	1.70	6.88

Source: Annual Report 1994-95, Ministry of Welfare

4.9 It may be seen from the above table that a large number of States, viz., Andhra Pradesh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Sikkim, Uttar Pradesh and West Bengal and the UT of Daman & Diu have earmarked funds under the TSP less than the proportion of ST in their respective States/UTs during 1993-94. Conspicuous in this regard are Gujarat, Karnataka, Maharashtra, Rajasthan, Sikkim and Daman & Diu. The Commission recommends that those State Governments which have not been able to step up outlay under their respective TSP during the period 1993-94 should rectify the position in the subsequent Plan periods.

4.10 Special Central Assistance is an additional source of fund for the TSP and is made available by the Ministry of Welfare, Govt. of India, to the State Governments implementing the TSP. During 1993-94 an amount of Rs.29,484 lakhs was released to the State Governments under the SCA.

4.11 The following statement indicates the release of funds under the SCA for the TSP during 1992-93 and 1993-94:

Table 3

(Rs. in lakhs)

S.No.	State/UT	Amount Released	
		1992-93	1993-94
1.	Andhra Pradesh	1529.34	1593.22
	Assam	1077.61	1087.57
	Bihar	3175.25	3497.39
4.	Gujarat	1855.84	2234.77
5.	Himachal Pradesh	403.39	755.03
6.	Jammu & Kashmir	296.14	518.60
7.	Karnataka	327.42	439.76
8.	Kerala	207.23	167.25
9.	Madhya Pradesh	6785.01	8117.65
10.	Maharashtra	1815.21	2234.35
11.	Manipur	383.41	417.12
12.	Orissa	3378.03	3603.23
13.	Rajasthan	1679.46	2664.68
14.	Sikkim	60.93	73.67
15.	Tamil Nadu	270.72	214.05
16.	Tripura	414.94	372.37
17.	Uttar Pradesh	58.40	69.22
18.	West Bengal	1171.67	1319.06
19.	A & N Islands	81.13	77.22
20.	Daman & Diu	23.87	28.29
Total		24995.00	29484.50

Source: Ministry of Welfare

4.12 Considering the size of the fund available under the SCA and that it is to be utilised for the income generating schemes, it assumes significant importance for the economic development of ST. The Commission expects that the State Govts./UT Adms. would utilise the assistance judiciously in such areas which will enhance the performance of the schemes in terms of income generation. The Ministry of Welfare is already monitoring the utilisation of the funds as also physical achievements.

SPECIAL COMPONENT PLAN FOR THE SCHEDULED CASTES

4.13 The Special Component Plan for SC is being implemented in the States of Andhra Pradesh, Assam, Bihar, Goa,

Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal and the Union Territories of Chandigarh, Delhi and Pondicherry. As in the case of the TSP, the allocation under the SCP has steadily increased since the beginning of the Sixth Five Year Plan. The following table shows the outlay and expenditure under the SCP from the Sixth Plan onwards:

Table 4

(Rs. in crores)

Plan Period	State Plan outlay	SCP outlay	%age of Col. 3 to Col.2	Actual Exp.	%age of Col. 5 to Col.2
Sixth Plan	47149.89	3614.66	7.66	2978.70	6.32
Seventh Plan	89322.89	7385.42	8.27	6916.62	7.74
1990-91	23225.49	2377.82	10.23	2107.22	9.07
1991-92	28041.04	3066.37	10.93	2936.45	10.47
1992-93	30684.47	3090.36	10.07	2892.89	9.43
1993-94	32728.54	3487.89	10.65	2887.95	8.82

Source: Annual Report 1994-95, Ministry of Welfare

4.14. The above table clearly brings to light the fact that while the outlay under the SCP grew in size in terms of financial resources as also percentage to the total State Plan, the actual expenditure always fell short of the outlays earmarked under the SCP. Further, the actual expenditure registered a steady declining trend after 1991-92. The Commission notes with concern that while the size of the State Plan has steadily increased over the years, the allocation under the SCP as a percentage to the State Plan is yet to reach the desired level. The Commission feels that it is in the interest of SC that not only outlays under the SCP is stepped up, effort in utilisation of all the funds is the need of the hour. The Commission desires that the situation should be monitored continuously and the desired level of outlay and expenditure reached expeditiously.

4.15 The following table gives the Statewise outlay and expenditure under the SCP during 1993-94:

Table 5

(Rs. in Crores)

S.No.	State/UT	% SC Popu.	State Plan Outlay	SCP Outlay	%age of Col.5 to Col.4	Expenditure	%age of Col.7 to Col.4
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	15.93	2075.55	207.65	10.00	215.00	10.35
2.	Assam	7.40	956.16	63.84	6.68	49.50	5.18
3.	Bihar	14.55	700.00	104.22	14.89	71.77	10.25
	Goa	2.08	170.00	2.20	1.29	1.65	0.97
5.	Gujarat	7.41	2137.00	80.43	3.76	-	-
6.	Haryana	19.75	920.00	125.33	13.62	99.35	10.80
7.	Himachal Pradesh	25.34	550.00	68.75	12.50	58.42	10.62
8.	Jammu & Kashmir	-	880.00	70.52	8.01	-	-
9.	Karnataka	16.38	3025.00	260.69	8.62	258.94	8.56
10.	Kerala	9.92	1003.00	98.06	9.78	96.48	9.62
11.	Madhya Pradesh	14.55	2400.00	310.78	12.95	218.27	9.09
12.	Maharashtra	11.09	3804.00	196.60	5.17	195.60	5.14
13.	Manipur	2.02	235.13	2.82	1.20	-	-
14.	Orissa	16.20	1450.00	214.52	14.79	179.19*	12.36
15.	Punjab	28.31	1250.00	195.17	15.61	90.30	7.22
16.	Rajasthan	17.29	1700.00	274.35	16.14	273.23	16.07
17.	Sikkim	5.93	100.12	5.96	5.95	-	-
18.	Tamil Nadu	19.18	2101.00	353.61	16.83	335.28	15.96
19.	Tripura	16.36	208.58	38.74	18.57	29.80	14.29
20.	Uttar Pradesh	21.05	4250.00	456.91	10.75	333.20	7.84
21.	West Bengal	23.62	1550.00	221.10	14.26	153.97*	9.93
22.	Chandigarh	16.51	80.00	2.34	2.92	2.34	2.92
23.	Delhi	19.05	1075.00	95.75	8.90	81.60	7.59
24.	Pondicherry	16.25	108.00	17.55	16.25	16.33	15.12

* Anticipated

Source: 1. Union Primary Census Abstract for SC and ST, Paper 1 of 1993

2. Annual Report 1994-95, Ministry of Welfare

4.16 It will be seen from the above table that most of the States and Union Territories could not utilise the amount earmarked under the SCP. The State/UTs in which the position is far from satisfactory are Andhra Pradesh, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Uttar Pradesh, West Bengal, Chandigarh and Delhi.

4.17 Special Central Assistance to the SCP is another source of funds available to the State Governments/UT Adms. for the development of SC. During the period 1993-94 an amount of Rs.27211.76 lakhs was released as SCA

to the State Governments/UT Adms. The Ministry of Welfare have issued modified guidelines for utilisation of the SCA in the family oriented-cum-income generating schemes. The utilisation of the SCA is reviewed periodically by the Ministry of Welfare. The following table indicates the Statewise release of SCA during 1993-94:

Table 6

Release of SCA to the States during 1993-94

S.No.	State/UT	(Rs. in Lakhs)
		SCA Released
1	2	3
1.	Andhra Pradesh	2416.06
2.	Assam	220.51
3.	Bihar	2327.21
4.	Gujarat	796.82
5.	Goa	2.86
6.	Haryana	424.53
7.	Himachal Pradesh	699.54
8.	Jammu & Kashmir	76.33
9.	Kerala	402.84
10.	Karnataka	1282.71
11.	Madhya Pradesh	2803.81
12.	Maharashtra	1562.79
13.	Manipur	5.56
14.	Orissa	1075.66
15.	Punjab	875.92
16.	Rajasthan	1829.89
17.	Sikkim	3.06
18.	Tripura	58.85
19.	Tamil Nadu	1879.11
20.	Uttar Pradesh	5933.29
21.	West Bengal	2322.75
22.	Chandigarh	12.39
23.	Delhi	184.76
24.	Pondicherry	14.81
Total		27211.96

Source: Annual Report 1994-95, Ministry of Welfare

Backward Classes Sector

4.18 Several Central Sector and Centrally Sponsored Schemes are being implemented under the Backward Classes Sector for the welfare and development of SC and ST. In the context of tribal development grants are also released to the State Governments under Article 275(1) of the Constitution. The following table shows the total outlay and flow to the TSP of the Central/Centrally Sponsored Schemes of the Tribal Development Division of the Ministry of Welfare during 1993-94:

Table 7

**Outlay and expenditure under the Central Sector/
Centrally Sponsored Schemes during 1993-94**

		(Rs. in Lakhs)	
S.No.	Scheme	Annual Plan 1993-94	
		Outlay	Expenditure
1.	Special Central Assistance	29485.00	29485.00
2.	Article 275(1) grants	7500.00	7080.00
3.	Girls' Hostels for ST	264.00	248.63
4.	Boys' Hostels for ST	270.00	254.29
5.	Ashram Schools for ST	252.00	252.00
6.	Voluntary Organisations	403.00	379.54
7.	Educational Complex in low literacy pockets	125.00	125.00
8.	Vocational training	190.00	178.94
9.	Grant-in-aid to State T.D.C.Cs	350.00	350.00
10.	Investment in TRIFED	800.00	600.00
11.	Grant-in-aid to TRIFED	100.00	75.00
12.	Price support to TRIFED	50.00	37.50
13.	Research & Training		
	(a) Grants to TRIs	120.00	120.00
	(b) Grants for projects	16.00	16.00

Source: Ministry of Welfare

4.19 The vocational training scheme under the Central Sector was started in 1992-93. Under the scheme the existing Ashram/residential school buildings are being utilised for the purpose of opening trade training centres in tribal areas. The scheme aims at enhancing the traditional skills among the ST youth for which each of the trainees would be imparted training in three trades of one's choice for four months.

4.20 A large number of ST families depend upon collection and sale of minor forest produce (MFP) for their living. Private traders because of their advantageous position try to exploit the situation. Nine State Governments have established Tribal Development Cooperative Corporations to offset the influence of private traders in the matter of collection and sale of MFP. By 1993-94 the Ministry of Welfare released grants totalling Rs.350 lakhs to these Corporations.

4.21 The Tribal Cooperative Marketing Development Federation of India Ltd. (TRIFED) has completed six years of working in 1993-94. Its activities revolve mainly around

procurement and sale of MFP and surplus agricultural produce. The performance of TRIFED during 1993-94 may be seen in the following statement:

Table 8

Performance of TRIFED during 1993-94

(Rs. in lakhs)

S.No.	Particulars	Procurement	Sale
1.	Minor Forest Produce	482.97	708.18
2.	Surplus Agr. Produce	4139.04	2029.36
3.	Exports	112.60	831.79
4.	Misc. (fabric, yarn, sarees, etc.)	49.87	4.49
5.	NOC	1207.46	1207.46
	(indirect exports)		

Source: 6th Annual Report 1993-94, TRIFED

4.22 The Commission is of the view that the role of TRIFED is extremely useful in the context of economic development of STs and realises the difficult circumstances in which it has to function, the financial position of TRIFED is, therefore, required to be strengthened significantly. The Govt. of India may consider stepping up its investment in the share capital of the Federation.

Central Sector/Centrally Sponsored Schemes for the Scheduled Castes (Backward Classes sector)

4.23 The following table shows the outlay and expenditure of the Central/Centrally Sponsored Schemes of the Ministry of Welfare for the development of the Scheduled Castes during 1993-94:

Table 9

(Rs. in Crores)

S.No.	Scheme	Annual Plan 1993-94	
		Outlay	Expenditure
1.	Special Central Assistance	247.00	272.12
2.	Assistance to SC Dev. Corp.	22.00	29.34
3.	National SC/ST Finance & Dev. Corporation	21.00	21.00
4.	Liberation & Rehabilitation of scavengers and their dependents	73.20	70.97
5.	Post Matric Scholarships	72.40	74.79
6.	Pre-Matric Scholarships for children of those engaged in unclean occupations	14.00	5.61
7.	Girls' Hostels for SC	6.00	6.00
8.	Boys' Hostels for SC	6.00	6.50

9.	Book Banks for SC/ST	5.60	3.33
10.	Coaching & Allied Scheme	2.00	1.73
11.	PCR Act & SC & ST (Prevention of Atrocities Act)	6.50	7.06
12.	Aid to Voluntary Org.	6.50	7.50
13.	Special educational development programme for SC girls	6.00	-
14.	Upgradation of merit	0.55	0.15
15.	Dr. Ambedkar Centenary Projects	4.00	4.00
16.	Research & Training	0.80	0.17

Source: Ministry of Welfare

Scheduled Castes and Scheduled Tribes Finance and Development Corporations

4.24 It may be seen from the above table that many of the schemes are aimed at educational development of SC & ST. The scheme for assistance to the Scheduled

Castes Finance and Development Corporations and the establishment of the National Scheduled Castes/Scheduled Tribes Finance and Development Corporation (NSFDC) are important measures for economic development of SC & ST. The SC & ST Finance and Development Corporations are functioning in 19 States and 4 UTs viz., Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu, Tripura, West Bengal, Uttar Pradesh, Chandigarh, Daman & Diu. The Central Government assist these Corporations by participating in the share capital investment to the extent of 49%. These Corporations function not only as guarantors and promoters but also play a very important role in the context of attracting credit from financial institutions. These Corporations identify the target families and motivate them to undertake economic development schemes besides sponsoring the cases of financial institutions for credit support. These Corporations also extend margin money loan to the beneficiaries at concessional rates of interest out of share capital assistance as also subsidy from the Special Central Assistance.

4.25 During 1993-94 an amount of Rs.29.35 crores was released to the States/UTs as Central share as per details as follows:

Table 10

(Rs. in Lakhs)		
S.No.	State/UT	1993-94
1	2	3
1.	Andhra Pradesh	875.52
2.	Assam	22.10

3.	Bihar	113.52
4.	Gujarat	96.07
5.	Haryana	164.31
6.	Himachal Pradesh	53.43
7.	Jammu & Kashmir	61.00
8.	Karnataka	212.35
9.	Kerala	124.20
10.	Madhaya Pradesh	57.65
11.	Maharashtra	138.16
12.	Orissa	59.22
13.	Punjab	14.13
14.	Rajasthan	18.60
15.	Tamil Nadu	318.50
16.	Tripura	9.60
17.	West Bengal	206.56
18.	Uttar Pradesh	238.77
19.	Chandigarh	4.80
20.	Delhi	57.65
21.	Pondicherry	21.13
22.	Goa	49.96
23.	Daman & Diu & Dadra & N.Haveli	17.75

Total

2934.66

Source: Annual Report 1994-95, Ministry of Welfare

4.26 During 1993-94, 7.54 lakh beneficiaries were covered under the schemes of the Corporations throughout the country. Since the schemes of the Corporations depend on the availability of bank finance, it is desirable that the problems presently being experienced in this regard are sorted out quickly.

4.27 The National Scheduled Castes/Scheduled Tribes Finance and Development Corporation (NSFDC) was set up in 1989 as a Government Company and its present authorised and paid-up share capital is Rs.125 crores. The Corporation is playing a very useful role in the context of economic development of SC & ST. The NSFDC finances schemes with tie-up arrangements with the State level SC & ST Finance and Development Corporations and other agencies engaged in the task of economic development of the target groups. Since its inception in 1989 till 31-3-94 the Corporation has assisted as many as 1,68,826 SC & ST persons under various schemes costing Rs.43016.85 lakhs. The share of the NSFDC amounts to Rs.21302.19 lakhs, representing 49.52% of the total cost of the schemes. A significant proportion of the funding by the NSFDC has been for schemes under the industry and services sectors which is essential to bring about a change in the occupational status of the SC & ST main workers which is unduly biased towards the primary sector at present. It may be noted that overwhelming majority of the beneficiaries under the schemes funded by the NSFDC were belonged to the Scheduled Castes

(86%) and only about 14% belonged to the Scheduled Tribes. The Commission recommends that earnest efforts should be made by the NSFDC in coordination with the State level agencies to identify more Scheduled Tribe beneficiaries in future. The percapita investment of the NSFDC's funds ranged between Rs.5,000 in case of Andhra Pradesh and Rs.75,000 in respect of Andaman & Nicobar Islands. The corresponding figure for the country is Rs.13,000. The following table shows the Statewise number of persons assisted by the NSFDC since 1989 to 31-3-94:

Table 11

State/UT wise beneficiaries assisted by NSFDC (as on 31-3-94)

(Rs. in Lakhs)									
S.No.	State/UT	Total Cost of Schemes	NSFDC's Share			Number of Beneficiaries			NSFDC's invest- ment per be- nefici- ary
			Term loan	Seed Capital	Total Funds	SC	ST	Total	
1	2	3	4	5	6	7	8	9	10
1.	Andhra Pradesh	7901.16	4025.09	25.00	4050.09	7596	1096	77082	0.05
2.	Arunachal Pradesh	4.33	2.40	0.00	2.40	-	7	7	0.34
3.	Assam	1027.96	613.38	0.00	613.38	4094	596	4690	0.13
4.	Bihar	2641.89	1544.00	0.00	1544.00	5279	1902	7181	0.22
5.	Goa	32.59	16.79	0.00	16.79	28	-	28	0.60
6.	Gujarat	1621.01	912.95	0.00	912.95	2210	500	2710	0.34
7.	Haryana	932.50	568.31	8.00	576.31	1020	-	1020	0.57
8.	Himachal Pradesh	542.68	235.72	63.29	299.01	330	74	404	0.74
9.	Jammu & Kashmir	263.15	184.20	0.00	184.20	375	55	430	0.43
10.	Karnataka	3777.99	1344.84	188.44	1533.28	9374	2383	11757	0.13
11.	Kerala	1660.25	832.72	0.00	832.72	1810	659	2469	0.34
12.	Madhya Pradesh	4118.60	1928.92	0.00	1928.92	4876	7764	12640	0.15
13.	Maharashtra	2416.71	1005.20	46.10	1051.30	3441	662	4103	0.26
14.	Manipur	395.06	211.30	0.00	211.30	8	485	493	0.43
15.	Mizoram	533.67	310.62	4.10	314.72	-	1190	1190	0.26
16.	Meghalaya	12.72	7.26	0.00	7.26	-	23	23	0.32
17.	Nagaland	397.28	165.11	2.36	167.47	-	602	602	0.28
18.	Orissa	2186.38	1200.56	4.29	1204.85	2078	2734	4812	0.25
19.	Punjab	1945.56	1161.55	9.60	1171.15	2068	-	2068	0.57
20.	Rajasthan	841.30	417.85	0.94	418.79	2476	112	2588	0.16
21.	Tamil Nadu	4763.98	1196.15	117.44	1313.59	12475	-	12475	0.11
22.	Tripura	382.61	209.94	0.00	209.94	227	272	499	0.42
23.	Uttar Pradesh	798.86	2387.39	0.00	2387.39	16739	2290	19029	0.13
24.	West Bengal	1166.28	636.05	0.92	636.97	3927	980	4907	0.13
25.	A & N Islands	23.21	13.45	0.00	13.45	-	18	18	0.75
26.	Chandigarh	111.65	67.38	0.00	67.38	165	-	165	0.41
27.	Delhi	1081.03	557.34	9.38	566.72	1257	-	1257	0.45
28.	Pondicherry	45.35	30.18	0.00	30.18	95	-	95	0.32
Total		44625.76	21786.65	479.86	22266.51	150338	24404	174742	0.13

Note: After sanction, 22 schemes were dropped. The related data in regard to these schemes are : Cost of Schemes Rs.1608.91 lakhs, NSFDC's share Rs.964.32 lakhs. No. of beneficiaries 5916.

Source: NSFDC, New Delhi

4.28 The National Scheme of Liberation and Rehabilitation of Scavengers was started in 1992. Identification and rehabilitation are two distinct action areas under the scheme. In its Annual Report 1994-95 the Ministry of Welfare has observed "The survey of scavengers is still not complete in States of Bihar, Orissa, West Bengal and Gujarat. The survey conducted in other States also suffers from deficiencies and there have been complaints that many localities and families have been left out." Considering the importance of the identification aspect under the scheme, the Ministry of Welfare may assign the task to some reputed NGOs at least on an experimental basis in some of the States. The Commission feels that while the objective of the scheme is clear and landable, its implementation so as to absorb all the scavenger families in alternative occupations is rather difficult and requires concerted and sincere efforts both by the Government and NGOs. During 1993-94 an amount of Rs.70.97 crores was released and 22,115 persons trained and 41,950 rehabilitated under the scheme.

Special Component Plans and Tribal Sub-Plans of Central Ministries

4.29 Some Central Ministries/Departments have quantified funds under the Special Component Plan and the Tribal Sub-Plan during 1993-94. In so far as the SCP is concerned the Ministries of Labour, Human Resource Development (Dept. of Education and Dept. of Women and Child Development), Science & Technology (Dept. of Bio-Technology), Industry (Cair Board and Development Commissioner, SSI & ARI) Textiles (Development Commissioner for Handloom and Development Commissioner for Handicrafts), Health & Family Welfare, Commerce and Rural Development and Department of Fertilizers have earmarked funds for the development of the Scheduled Castes. The Department of Agriculture & Cooperation, Ministry of Agriculture, has also implemented a number of schemes to benefit SC and ST under various agricultural development programmes. In all the crop oriented programmes efforts have been made to increase the quantum of assistance to SC & ST. In the Department's area development programmes such areas are being identified where the areas of land belonging to SC and ST are comparatively higher. Similar efforts have been made in case of programmes aimed at strengthening infrastructural facilities. For the purpose of quick transfer of technology, demonstration of maize and millet crops has been taken up in such areas where there is concentration of SC and ST farmers. The benefits derived by SC and ST has been assessed at 13% of the total Plan outlay during 1993-94.

4.30 The Ministry of Food Processing Industries formulated schemes in areas of entrepreneurship development, setting up of fruit and vegetable processing units, development of pork processing, development of sheep,

goat and rabbit meat processing, development of poultry and egg processing, development of marketing facilities and transport for meat processing and training of manpower for meat industry. In all these schemes special attention is being paid to SC and ST in the matter of identification of areas, beneficiaries, finance, etc.

4.31 The Ministry of Health & Family Welfare has given special attention towards the requirement of health services of SC and ST. In all the national health programmes funds have been earmarked under the SCP. During 1993-94, under the Central Health Sector, about 5.84% of the approved outlay was allocated under the SCP.

4.32 The Department of Fertilizers, Ministry of Chemicals & Fertilizers has taken some initiatives for economic development of SC and ST. It has advised the public sector undertakings under its administrative control to formulate programmes under which ST persons will be educated in scientific use of fertilizers, building up of dealer/retailer network in tribal areas and providing fertilizers in small packs in tribal areas. The Department has also issued instructions in 1978 to reserve 25% of dealerships of fertilizers for SC & ST. The SC & ST are also extended other concessions which include exemption/relaxation from security deposits, preference in supply of fast moving materials, higher dealership margin and free training in handling fertilizers.

4.33 The Development Commissioner for Handicrafts in the Ministry of Textiles set up under a scheme Craft Development Centres to extend a basket of useful services to a group of craftsmen. The services include raw material supply, design, procurement and marketing. In 1993-94 two Craft Development Centres for ST and one for SC were sanctioned. In handloom sector out of the total outlay of identified Centrally Sponsored and Central Sector Schemes about 22% and 11% of the funds are earmarked for SC and ST respectively. The schemes under which funds are allocated to the SCP and the TSP are Welfare Package Scheme, Project Package Scheme including Handloom Development Centre, Workshed-cum-Housing Scheme and Margin Money for Destitute Weavers.

4.34 The Rubber Board and the Coffee Board under the Ministry of Commerce have formulated schemes for the development of SC and ST. Under the schemes of the Rubber Board SC/ST farmers eager to establish rubber plantations are assisted with cash subsidy of Rs.8,000 per hectare, interest subsidy at 3% on loan availed from NABARD, supply of planting materials free of cost, fertilizer subsidy at 50% cost limited to Rs.1,000 during the first three years, financial assistance for boundary structure, assistance to SC/ST growers' group rubber farming, training in rubber tapping etc. The Coffee

Board extends loans of four types at 4% to tribal coffee growers. These are intensive cultivation loan, replanting loan, extensive cultivation loan and special purpose loan.

4.35 The Commission notes that there is a growing awareness among the Central Ministries of the importance of formulating schemes of specific nature for economic development of SC and ST and earmarking of separate funds under them. The Commission recommends that all the central Ministries and Departments who are yet to formulate their SCP and TSP should follow suit by formulating schemes and programmes to benefit these groups. The Central Ministries/Departments should also simultaneously evolve a system to monitor financial and physical achievements under their respective SCPs and TSPs. The Commission further recommends that the Central Ministries/Departments in their annual reports in addition to giving information about representation of SC and ST in posts and services, may also give an account of the programmes/schemes undertaken by them for the welfare and development of SC and ST and physical and financial achievements under them during the period. The following statement indicates the flow of funds to the SCP in respect of the Central Ministries/Departments during 1993-94.

Table 12

S.No.	Ministry/Deptt.	(Rs. in Lakhs)	
		1993-94	
		Total Outlay	Flow to SCP
1.	Ministry of Labour	712.70	262.15
2.	Ministry of Human Resource Development (Deptt. of Education)	60091.00	8944.00
3.	Ministry of Science & Technology (Deptt. of Bio-Technology)	8500.00	47.00
4.	Ministry of Industry (Deptt. of SSI & ARI)		
	(i) Coir Board	635.00	148.16
	(ii) DC, SSI & ARI	10375.00	1481.25
5.	Ministry of Textiles (Dev. Commr. for Handlooms)	3720.00	876.71
6.	D.C. for Handicrafts	4000.00	613.00
7.	Ministry of Petroleum & Natural Gas		
	(i) IOC		110.00
	(ii) Bharat Petroleum	54.5	28.60
	(iii) Cochin Refinery	6.00	6.00
	(iv) SAIL	53528.00	27.95
	(v) Hindustan Petroleum	45.00	15.00
	(vi) Bongaon Refinery	120.00	17.30
	(vii) Lubrizol India	5.00	2.50

	(viii) Balmer Lawrei	8.50	5.30
	(ix) IBP		
	(x) ONGC	30.00	18.75
8.	Deptt. of Women & Child Development	408.55	261.47
9.	Ministry of Health & Family Welfare	48330.00	2821.46
10.	Ministry of Commerce	10758.00	597.00
11.	Deptt. of Fertilizers		
	(i) NFL	0.58	0.38
	(ii) FACT	176.24	6.19

Source: Annual Report 1994-95, Ministry of Welfare

4.36 The available information indicates that in 1993 the following ten Central Ministries have prepared TSPs: Ministry of Health and Family Welfare, Ministry of Commerce, Ministry of Environment and Forests, Ministry of Human Resources Development, Ministry of Industry, Ministry of Rural Development, Ministry of Science & Technology, Ministry of Textiles, Ministry of Communication and Ministry of Labour. The following table indicates Ministry/Department-wise flow of funds to the TSP:

Table 13

		(Rs. in crores)		
S.No.	Ministry/Department	1993-94		
		Outlay	TSP	%age
1	2	3	4	5
1.	Ministry of Health & Family Welfare (Central Health Sector)	483.30	31.66	6.55
2.	Ministry of Commerce	79.61	5.75	7.22
3.	Ministry of Environment & Forests	101.85	38.17	37.48
4.	Ministry of Human Resources Development (Deptt. of Education)	600.91	61.79	10.28
5.	Ministry of Industry	241.66	57.87	23.95
6.	Ministry of Rural Development	5010.00	74.60	1.49
7.	Ministry of Science & Technology	149.56	0.40	0.27
8.	Ministry of Textiles	313.50	6.33	2.02
9.	Ministry of Communication (Deptt. of Telecommunications)	4833.14	188.36	3.90
10.	Ministry of Labour	7.04	1.03	14.65

Source: Annual Report 1994-95, Ministry of Welfare

Poverty Alleviation Programmes

4.37 A number of programmes for eradication of poverty are being implemented with the objective of raising the standard of living of the poorer sections of the society. These programmes fall in two categories: one aims at promoting self-employment amongst the rural poor by providing productive assets through a combination of credit and subsidy, the other programmes are targetted at generation of employment and simultaneously building up of community assets in the process.

4.38 The integrated Rural Development Programme (IRDP) was launched in the country during the Sixth Five Year Plan and it envisaged coverage of the poorest of the poor in the rural population. Under the programme families identified as living below the poverty line provided with credit and subsidy to acquire income generating assets. It has special significance with relation to SC and ST as out of the total number of families to be assisted at least 50% of them are from these communities. During 1993-94 an amount of Rs.109543.00 lakhs was allocated under the programme and the utilisation was of the order of Rs.95664.95 lakhs (about 87%). In so far as coverage of SC and ST is concerned, they constituted 35.97% and 17.05% respectively out of the total number of beneficiaries during the year. The following table indicates the performance under the IRDP during 1993-94:

Table 14

S.No.	State/UT	Total No. of families assisted	No. of SC families	No. of ST families	%age of SC & ST Families
1.	Andhra Pradesh	25967	107040	52829	61.56
2.	Arunachal Pradesh	15207	-	15207	100.00
3.	Assam	63381	8797	16164	39.38
4.	Bihar	335908	108105	70168	53.07
5.	Goa	3452	32	-	0.93
6.	Gujarat	79725	13236	27983	51.70
7.	Haryana	34026	16490	-	48.46
8.	Himachal Pradesh	9128	3856	834	51.38
9.	Jammu & Kashmir	7408	1189	2231	46.17
10.	Karnataka	132861	41168	8936	37.72
11.	Kerala	53698	24939	1969	50.11
12.	Madhya Pradesh	242673	67002	92068	65.55
13.	Maharashtra	217671	55345	36378	42.14
14.	Manipur	6333	75	4126	66.33
15.	Meghalaya	2635	18	2617	100.00
16.	Mizoram	4684	-	4684	100.00
17.	Nagaland	5489	-	5489	100.00
18.	Orissa	160000	43543	50246	58.61
19.	Punjab	33736	17837	-	52.87

20.	Rajasthan	116567	41521	22315	54.76
21.	Sikkim	1218	64	469	43.76
22.	Tamil Nadu	214888	99358	5306	48.71
23.	Tripura	16294	2712	5234	48.76
24.	Uttar Pradesh	445403	234092	2486	53.12
25.	West Bengal	73818	25959	4210	40.87
26.	A & N Islands	1171	-	230	19.64
27.	D & N Haveli	372	19	341	96.78
28.	Daman & Diu	507	33	133	32.74
29.	Lakshadweep	81	-	81	100.00
30.	Pondicherry	1407	508	-	36.11
Total		2539441	912938	432734	53.02

Source: Annual Report 1994-95, Ministry of Rural Development

4.39 The Commission recommends that the State Governments of Assam, Goa, Karnataka, Maharashtra and West Bengal should ensure coverage of at least 50% of the total number of assisted families from SC & ST.

4.40 To start any economic venture, skill and entrepreneurial ability are important requisites. However, it is a known fact that the rural poor especially SC and ST lack these. Keeping this in view, a Centrally Sponsored Scheme, viz., Training of Rural Youth for Self-Employment (TRYSEM) introduced in 1979. Under this programme an identified youth undergoes training either in training institution or under a master craftsman to acquire necessary skills to start his own venture for which credit and subsidy are made available under the IRDP. The success of the programmes of this nature largely depends upon the extent to which the trained youth have been able to utilise their training for earning livelihood. The Commission is of the view that the selection of trades should be made in such a manner that they have both wage and self-employment potential with relation to local environment and needs. The concerned authorities should also pay greater attention towards providing infrastructural support in the forms of backward and forward linkages to the trainees seeking to start their ventures. Under this programme also there is a stipulation of atleast 50% coverage by SC and ST. During 1993-94, out of 3,03,821 youth trained, the coverage of SC and ST was 1,45,298 which represents about 48%.

4.41 The Jawahar Rozgar Yojana was launched in 1989 by merging the National Rural Employment Programme and Rural Landless Employment Guarantee Programme, the two earlier wage employment programmes. This programme aims to provide at least 90 to 100 days of wage employment per person in backward districts of the country. In 1993-94 this programme underwent some modifications and was implemented in three combinations. In the first stream two schemes viz., Indira Awas Yojana and Million Wells Scheme, are being implemented. Under the second stream an intensified JRY is being implemented in 120

identified backward districts. Under the third stream special and innovative projects are taken up. The Central Government meet 80% of the financial requirements and the balance comes from the concerned State Government. Under this programme funds are made available to Gram Panchayats through the District Rural Development Agencies/Zilla Parishads and at the village level it is the Gram Panchayat which is responsible for the implementation of the programme. There is a committee at the village level which decides the manner in which the programme would be implemented and the committee must have representation of SC/ST.

4.42 During the period 1989-90 to 1993-94 the target was to generate 43323.84 lakh man-days and the actual generation was of the order of 42825.94 lakh man-days (98.54%). The share of SC and ST during the period was 37.48% and 18.12% respectively. Under the Million Wells Scheme irrigation wells are provided to small and marginal farmers and freed bonded labourers. Earlier this scheme was meant exclusively for SC and ST and freed bonded labourers but since 1993-94 small marginal farmers from non-SC/ST groups are also being covered under the scheme. Likewise, the Indira Awas Yojana which was initially for SC and ST and freed bonded labourers has been extended to non-SC/ST rural poor since 1993-94. However, the Commission regrets to note that the number of wells constructed during 1993-94 was 1,49,335 as against 1,80,995 in 1992-93 under the Million Wells Scheme - a decline of about 17.5% in terms of physical achievement. Under the Indira Awas Yojana the performance has been gratifying. As against 1,92,585 houses constructed in 1992-93, the achievement in 1993-94 was 3,59,933 - an increase of about 87%. Considering the importance of these schemes not only in terms of wage employment but also from socio-economic angle, the Commission desires that there should be no let up in the level of achievement under the Indira Awas Yojana and efforts need to be made to increase level of achievement under the Million Wells Scheme.

4.43 In 1993 another wage employment scheme was launched. The Employment Assurance Scheme (EAS) is being implemented in 1,778 backward blocks in the country. Under the programme 100 days of unskilled manual job are provided to the rural poor who are over 18 and below 60 years of age and seeking employment. During 1993-94, 261 districts were covered and 494.74 lakh man-days of employment generated. The Commission recommends that under the EAS also targets should be fixed for the coverage of SC and ST as they constitute bulk of the rural poor.

4.44 The Commission considers that employment generation programmes are of utmost importance in the context of economic development of SC and ST. These programmes

have distinct advantages under the present condition because the purchasing power at their disposal will to a great extent minimise their economic dependence on others and simultaneously work as a check in regard to their migration to urban areas for work. The community assets which are being built up will raise the quality of life of the rural poor. Secondly, assured employment during the slack season will considerably enhance their confidence and reduce their vulnerability. In all the poverty eradication programmes the essence of success lies in the proper identification of the poorest and the Commission recommends that this should be given maximum attention and care.

4.45 The Department of Telecommunications, Ministry of Communications has taken steps to ensure development of telecom facilities in tribal areas and treating these areas as Special Focus Areas. During 1993-94 the approved outlay under the TSP was Rs.173.68 crores (with R.E. as Rs.256.48 crores) and the actual expenditure was reported to be Rs.190.15 crores. The following table gives the details of targets and achievements under the TSP during 1993-94:

Table 15

S.No.	Item	Target	Achievement
1.	Telephone Exchange (No.1)	81	174
2.	Switching Capacity (Lines)	62600	89949
3.	Direct Exchange Lines (No.)	47000	63457
4.	UHF Schemes (Route Kms.)	3500	900
5.	Gram Panchayat Telephone (No.)	3150	4095
6.	Telex Capacity	200	15
7.	Satellite Earth Stations	2	2

Source: Annual Report 1994-95, Dept. of Telecommunications, Ministry of Communications.

CHAPTER V

LAND

According to 1991 census more than 74% of the country's total population live in rural areas and among Scheduled Castes and Scheduled Tribes, more than 85% of them are rural based. Coupled with this predominant rural character of the society in general and of Scheduled Castes and Scheduled Tribes in particular is another important characteristic of its agriculture based economy. Both these characteristics are much more pronounced in the case of Scheduled Castes and Scheduled Tribes where 74.50% Scheduled Caste main workers and 87.19% Scheduled Tribe main workers were eking out their livelihood either as cultivators or as landless agricultural labourers. A comparison of occupational classification of main workers in general, SC and ST population for the four major categories of cultivators, agricultural labourers, those engaged in household industry and 'other workers' for the last four censuses from 1961 to 1991, some very significant conclusions emerge:

Table 1*

Occupational classification of main workers from
1961 to 1991 Census (in percent)

S.No.	Category of workers	1961			1971			1981			1991		
		Gen.	SC	ST	Gen.	SC	ST	Gen.	SC	ST	Gen.	SC	ST
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.	Cultivators	52.78	37.76	68.18	43.38	27.87	57.56	41.53	28.17	54.43	39.74	25.44	54.50
2.	Agricultural labourers	16.71	34.48	19.71	26.32	51.74	33.04	25.16	48.22	32.67	19.55	49.06	32.69
3.	Household Industry	6.38	6.56	2.47	3.55	3.33	1.03	3.99	3.31	1.42	2.56	2.41	1.04
4.	Other workers	24.13	21.20	9.64	26.75	17.06	8.37	29.32	20.30	11.84	38.04	23.08	11.76

5.2 This table reveals that the percentage of SC workers engaged as cultivators decreased from 37.76% in 1961 to 25.44% in 1991. On the other hand, the percentage of SC agricultural labourers registered a high increase from 34.48% to 49.06% during the same period. Similar trend is noticed in respect of the Scheduled Tribes. Percentage of ST cultivators declined from 68.18% in 1961 to 54.50% in 1991 and that of agricultural labourers went up from 19.71% in 1961 to 32.69% in 1991.

*Source: Census Reports

5.3 It shows that the rural poor, particularly the Scheduled Castes and the Scheduled Tribes who depend heavily on agriculture and allied activities for their livelihood have been successively losing whatever land they had over the years. From the status of cultivators even though as marginal or small farmers they are becoming landless agricultural labourers or turning into 'other workers' where their percentage has also gone up from 1961 to 1991 as is indicated in the above table. This phenomenon shows that there has hardly been any upward mobility or diversification in their occupational pattern. Though there could be many factors responsible for this state of affairs, like forcible eviction of these people from their lands, non-conferment of ownership rights, tardy implementation of allotment of ceiling surplus and other categories of land to them etc. the fact remains that a significant percentage (nearly 25%) of our country's population comprising Scheduled Castes and Scheduled Tribes and among whom more than three-fourth are predominantly dependent on land and activities connected with it, have hardly any land of their own. Whatever land they possess, their holdings are marginal and small in size (less than 2 hectares). In a situation where majority of SC and ST live below the poverty line and hardly have any other material possessions as symbols of social status the significance of their possessing land needs no emphasis. Land not only provides them an assured source of livelihood but also bestows upon them social status.

Operational Holdings

5.4 According to the main findings of various Agricultural Censuses from 1970-71 to 1985-86, the number of operational holdings in the country has been steadily increasing over the years for all size classes taken together and for all the social groups including SC and ST as is evident from the following figures:

Table 2*

Agricultural Census year	No. of holdings (in millions)		No. of SC/ST holdings			
	all size classes	all social groups	Share SC	Share in %	Share ST	Share in %
	Percentage increase					
1	2	3	4	5	6	7
1970-71	71		Separate agricultural Census of SC/ST holding was done for the first time in 1980-81 only.			
1976-77	81.6	14.9				
1980-81	88.9	9.0	10.05	11.3	6.85	7.7
1985-86	97.2	9.3	12.04	12.4	7.65	7.9
1990-91	105.3 (expected)					

*Source: Report of Agricultural Census 1985-86

The total number of operational holdings for all size classes and all social groups increased from 71 million in 1970-71 to 81.6 million in 1976-77, registering an increase of 14.9%. There was an increase of 9% in the total number of holdings from 1976-77 to 1980-81. The number of holdings which went up to 88.9 million in 1980-81 further increased to 97.2 millions during 1985-86, registering an increase of 9.3%. The Scheduled Caste holdings which were 10.05 million in 1980-81 and had a share of 11.3% of the total holdings also went up to 12.04 millions in 1985-86. Their share during 1985-86 was 12.4% of the total holdings. The share of ST holdings which was 6.85 million (7.7%) in 1980-81 increased to 7.65 million (7.9%) in 1985-86.

5.5 Distribution of operational holdings by major size groups reveals that increase in the total operational holdings and even for different social groups like Scheduled Castes, Scheduled Tribes and others separately has been mainly in the category of marginal and small holdings as is shown in the following table:

Table 3*

Percentage distribution of operational holdings
by major size classes

S.No.	Major size Classes	Social Groups					
		SC		ST		Others	
		1980-81	1985-86	1980-81	1985-86	1980-81	1985-86
1.	Marginal	68.9	70.7	39.8	41.3	56.2	57.5
2.	Small	16.3	16.0	22.6	23.5	11.9	18.3
3.	Semi- medium	9.5	8.8	20.5	20.2	14.0	13.7
4.	Medium	4.4	3.8	13.7	12.2	9.3	8.4
5.	Large	0.9	0.7	3.4	2.8	2.6	2.1

Not only that number of holdings of all social groups including Scheduled Castes and Scheduled Tribes has increased in the marginal and small holdings (except in case of Scheduled Castes where their small holdings decreased from 16.3% to 16.0% between 1980-81 and 1985-86) the largest number of total operational holdings of each social group is in the category of marginal holdings followed by small holdings both in 1980-81 and 1985-86. According to 1980-81 Agricultural Census out of total operational holdings of 88.90 million in 1980-81, the Scheduled Castes had 10.05 million holdings. Out of these holdings 68.9% were marginal holdings, (below 1 hectare), and 16.3% were small holdings (between 1 and 2 hectares). Large holdings were only 0.9% of their total holdings. During 1985-86 Agricultural Census the same pattern is noticeable. The largest number of holdings (70.7%) are marginal holdings and the least (0.7%) are large holdings. There is an abrupt fall in the number of various

*Source: Report of Agricultural Census 1985-86

categories of holdings from marginal to large during both the years.

5.6 The position in respect of Scheduled Tribes is slightly better as compared to that of the Scheduled Castes. In their case, out of 6.85 million holdings in 1980-81, only 39.8% were marginal, 22.6% small, 20.5% semi-medium, 13.7% medium and 3.4% large holdings (10 hectares and above). During the two Agricultural Census periods of 1980-81 and 1985-86, the percentage of marginal and small holdings of Scheduled Tribes have registered a small increase while other categories of holdings have shown a decline.

The percentage distribution of operational holdings in major size groups among the Scheduled Castes, Scheduled Tribes and others is given in the table below:

Table 4*

Major Size groups	Social Groups					
	(Distribution of holdings in percentage)					
	Scheduled Castes		Scheduled Tribes		Others	
	1980-81	1985-86	1980-81	1985-86	1980-81	1985-86
1	2	3	4	5	6	7
Marginal (below 1 hectare)	13.8	15.2	5.4	5.6	80.8	79.2
Small (between 1 and 2 hec.)	10.2	10.7	9.7	10.0	80.1	79.3
Semi-medium (between 2 and 4 hec.)	7.6	8.1	11.3	11.6	81.1	80.3
Medium (between 4 and 10 hec.)	5.4	5.8	11.6	11.8	83.0	82.4
Large (10 hec. and above)	4.4	4.5	10.8	11.1	84.8	84.4
All size Groups	11.3	12.4	7.7	7.9	81.0	79.7

It is seen from the above table that the share of SC and ST is much less in all the major size groups of operational holdings both during 1980-81 and 1985-86. In the category of large holdings the least share was of Scheduled Castes who had only 4.4% and 4.5% of the total large holdings during 1980-81 and 1985-86 respectively. In the case of Scheduled Tribes the position is reverse. Their share in the marginal and small holdings was less than those in respect of semi-medium, medium and large holdings. Their maximum share

*Source: Report of Agricultural Census 1985-86

(11.6%) out of all the size groups was in the medium holdings (between 4 and 10 hectares) while least share (5.4%) was in marginal holdings during 1980-81. Similar trend is noticeable in respect of the share of Scheduled Tribes holdings in the various size groups during 1985-86. the largest share (11.8%) was in the medium size holdings and the smallest share (5.6%) was in the marginal size holdings.

5.7 The share of non-SC/ST persons in the different major size groups of operational holdings both during 1980-81 and 1985-86 shows an entirely different pattern. In their case the percentage share in all types of size groups is more than 80 in 1980-81 and above 79 in 1985-86 which is much more than the share of Scheduled Castes and Scheduled Tribes in each size group. Moreover, their percentage share in the large size holdings (10 hectares and above) is the maximum (84.8%) in 1980-81 and 84.4% in 1985-86. It is just reverse of the position in respect of Scheduled Castes whose maximum share is in the marginal holdings and minimum in large holdings.

5.8 The above table also reveals another significant fact that while there is a large variation showing abrupt decline in the share of Scheduled Castes in various size groups as one moves from marginal to large holdings (from 13.8% marginal holdings to 4.4% large holdings during 1980-81 and from 15.4% marginal to 4.5% large holdings during 1985-86) there is not such a wide variation in respect of the share of non-SC/ST in different size group holdings which lie between 80.8% and 84.8% in 1980-81 and 79.2% to 84.4% in 1985-86.

Number of Holdings and Area Operated

5.9 The number of operational holdings and area operated among Scheduled Castes, Scheduled Tribes and others are shown in the following table:

Table 5*
No. of operation holdings and Area Operated in India by
various Social Groups in 1980-81 and 1985-86

Social Group	No. of Holdings (in lakhs)		Percentage change	Area Operated (in lakh hec.)		Percentage change
	1980-81	1985-86		1980-81	1985-86	
1	2	3	4	5	6	7
Scheduled Castes	100.52 (11.3)	120.41 (12.4)	+ (19.8)	115.22 (7.0)	126.39 (7.7)	+ (9.7)
Scheduled Tribes	68.54 (7.7)	76.48 (7.9)	+ (11.6)	167.04 (10.2)	172.34 (10.5)	+ (3.2)
Others	719.77 (81.00)	774.66 (79.7)	+ (7.6)	1355.71 (82.8)	1346.89 (81.8)	- (0.7)
All Social Groups	888.83 (100.0)	971.55 (100.0)	+ (9.3)	1637.97 (100.0)	1645.62 (100.0)	+ (0.5)

*Source: Report of Agricultural Census 1985-86

5.10 The total area operated in the country during 1985-86 was about 1646 lakh hectares as against about 1638 hectares in 1980-81. The area operated by Scheduled Castes during 1985-86 showed a significant increase of 9.7% over the area operated by them during 1980-81 from 115 lakh hectares (7.0% of the total area operated) to 126 lakh hectares (7.7% of the total area operated) as against increase in their operational holdings from 11.3% in 1980-81 to 12.4% in 1985-86. In the case of Scheduled Tribes there was an increase of 3.2% in the total area operated by them from 167 lakh hectares (10.2%) in 1980-81 to 172 lakh hectares (10.5) in 1985-86. Their share in the total operational holdings increased from 7.7% in 1980-81 to 7.9% in 1985-86.

5.11 There was an insignificant decrease of 0.7% in the total area operated by other social groups (non SC/ST) in 1985-86 over 1980-81 (from about 1356 lakh hectares to about 1347 lakh hectares). It may be observed that though there was an increase of 7.6% in the total number of holdings of non-SC/ST persons from 1980-81 to 1985-86, there was a small decline (0.7%) in the area operated by them during the same period.

Average Size of Holdings

5.12 The distribution of average size of holdings by all social groups according to major size classes in 1980-81 and 1985-86 is shown in the following table:

Table 6*
Average size of holdings

Major size classes	Average size of holdings (in hectares)							
	S.C.		S.T.		Others		All Social Group	
	1980-81	85-86	1980-81	85-86	1980-81	85-86	1980-81	85-86
1	2	3	4	5	6	7	8	9
Marginal	0.36	0.37	0.48	0.48	0.39	0.39	0.39	0.39
Small	1.41	1.41	1.43	1.43	1.45	1.44	1.44	1.43
Semi-medium	2.71	2.70	2.74	2.73	2.79	2.43	2.78	2.77
Medium	5.84	5.78	5.98	5.95	6.03	5.97	6.04	5.96
Large	16.44	16.24	15.88	15.87	15.65	17.43	17.41	17.21
All size Classes	1.15	1.05	2.44	2.25	1.88	1.74	1.84	1.69

5.13 According to Report on Agricultural Census, 1985-86, the average size of operational holdings in the country has successively been declining for all social groups in the country. It was 2.3 hectares in 1970-71, 2 hectares in 1975-76 which came down to 1.84 hectares in 1980-81 and further declined to 1.69 hectares during the agricultural census of 1985-86.

*Source: Report of Agricultural Census 1985-86

5.14 The average size of Scheduled Caste holding came down from 1.15 hectares in 1980-81 to 1.05 hectares in 1985-86. In the case of Scheduled Tribes, the average size of holding declined from 2.44 hectares in 1980-81 to 2.25 hectares in 1985-86. It may be seen from the above table that the average size of holdings for the Scheduled Tribes was more than twice the average size of S.C. holdings during 1980-81 as well as during 1985-86. It was also higher than the average size of holdings for non-SC/ST persons whose average size of holdings was 1.88 and 1.74 hectares during 1980-81 and 1985-86 respectively.

5.15 An analysis of the data relating to operational holdings for different social groups and major size classes as brought out by the Agricultural Census of 1985-86 (latest available) and discussed in the above paragraphs reveals the following:

- (1) Out of 97.2 million operational holdings in the country the share of Scheduled Castes was 12.4% and that of the Scheduled Tribes was 7.9% as against 79.7% share of others.
- (2) The operational holdings of Scheduled Castes registered an increase of 19.8% in 1985-86 over the number of their holdings in 1980-81. This increase was 11.6% for the Scheduled Tribes and 7.6% for others.
- (3) Marginal holdings accounted for the largest proportion so far as number of holdings was concerned for all social groups. It was 70.7% for Scheduled Castes, 41.3% for Scheduled Tribes and 57.5% for others (1985-86).
- (4) The proportion of small, semi-medium, medium and large size holdings to the total holdings was much higher for the Scheduled Tribes as compared to that of the Scheduled Castes. Large holdings formed nearly 2.8% in the case of Scheduled Tribes as against 0.7% in the case of Scheduled Castes during 1985-86. The Scheduled Tribes were in a better position as compared to the Scheduled Castes in terms of size of holdings.
- (5) In terms of the area operated by different social groups out of the total area operated, the Scheduled Castes had the least area (7.7%) to operate as against 10.5% for Scheduled Tribes and 81.8% for others.
- (6) The average size of holdings of Scheduled Castes during 1985-86 was 1.05 hectares which was much less than that of the Scheduled Tribes (2.25 hectares) and that of others (1.69 hectares).

5.16 Although the number of operational holdings of SC and ST has been increasing over the years alongwith a small

Increase in their percentage share of the total holdings, the proportion of the total holdings held by them still remains much less than the percentage of their population in the country's total population as shown below:

Table 7*

Social Groups	Population Percentage		Percentage share in the No. of holdings during		Percentage share in the area operated	
	1981	1991	1980-81	1985-86	1980-81	1985-86
1	2	3	4	5	6	7
Scheduled Castes	15.47	16.33	11.3	12.4	7.0	7.7
Scheduled Tribes	7.85	8.03	7.7	7.9	10.2	10.5
Others	76.68	75.64	81.0	79.7	82.8	81.8
Total	100.00	100.00	100.00	100.00	100.00	100.00

In terms of area operated the share of Scheduled Castes was much less, less than even half of their population percentage both during 1980-81 and 1985-86. However, the Scheduled Tribes were in a better position as their percentage share in the total operated area was more both during 1980-81 and 1985-86 than their population percentage in 1981 as well as in 1991 Census.

5.17 It is an irony that the Scheduled Castes and Scheduled Tribes who are the very people who provide the bulk of agricultural force to toil on the land as labourers to feed the country's teeming millions do not have a share in the total operational holdings as well as in the total operated area proportionate to their population. Though there may be other factors responsible for this imbalance in the distribution of land among the various social groups, particularly among the Scheduled Castes and Scheduled Tribes, it is evident that one of the major causes for this malaise is improper and half-hearted implementation of various land reform measures.

Land Reforms

5.18 According to 1994-95 Annual Report of the Ministry of Rural Development 68% of the country's population depend for its livelihood on agriculture and allied activities. But bulk of the land available (71%) is owned by 23.8% of the population while majority of the population controls only the remaining 29% with holdings mostly less than 2 hectares in size. The national land reforms policy was framed mainly with the intention of bringing about suitable changes in the economic structure of the rural society so as to remove imbalances in the distribution of available land to the various social groups. Although the main objectives of the land reforms policy like abolition of intermediary tenures,

*Source: Report of Agricultural Census and 1981 & 1991 Census

tenancy reforms, ceiling on ownership of agricultural holdings, consolidation of holdings, compilation and updating of land records and distribution of ceiling surplus and other types of land to the landless had been clearly set during the Sixth Plan and a time schedule was laid down for achieving these objectives, the position in the implementation of various reforms has been hardly satisfactory. The Working Group on Development and Welfare of Scheduled Castes during the Eighth Five Year Plan (1990-95) in their report (August 1990) had observed that "though intermediaries were abolished, the time taken in bringing in legislations in respect of other aspects had resulted in frustration of the original intentions very much". They have further observed:

"The tenancy law, except in one or two pockets like West Bengal, has not provided the security to the target sections as expected as there was no practice of recording of the enjoyment of cultivation properly in most of the areas. Even where it had been done the landlords had managed to use the arm of the law to get rid of the tenants to a large extent under the guise of personal cultivation".

In respect of implementation of ceiling lands the Working Group observed:

"The agricultural ceiling lands have been a mere failure. As against the estimated availability of surplus land of about 30 million hectares, only a little over 7 million acres have been declared surplus so far. Against this the land distributed is 4.5 million acres to about 4 million beneficiaries. The intervention of the courts in frustrating the implementation of ceiling laws have been considerable."

Land Records

5.19 In a predominantly agrarian society like ours proper and upto-date maintenance of land records is imperative. Correctly maintained up-to-date land records are not only highly useful for policy formulation but are also very helpful in maintaining harmonious relations among different social groups in the rural society by reducing land related litigation. But unfortunately this vital area did not receive desired attention of the Government, Central and States for a long time and as a result the position of land records in many States in the country is not at all satisfactory. In many States the land records have not been updated while there are areas for which land records do not exist. The importance of proper maintainance of land records was emphasised by the Prime Minister at the Conference of Chief Ministers held on October 4-5, 1991. He observed:

"For a poor person, for the small person, for the weak person, a land record is a weapon. It is not just a record, it is not just a piece of paper or not

one entry tucked away somewhere in the Tahsil Office, but it is a weapon to him. You are giving a weapon in his hands. If he has no weapon, he has no way of fighting the more influential sections of society who may always want or sometimes want to deprive him of his rights. Therefore, giving him land should also be followed by giving him the right in the shape of a record and again making him viable economically."

5.20 The Revenue Ministers Conference held in 1988 had made some very useful recommendations in respect of unfulfilled targets laid down in the Plan relating to land reforms. These recommendations are reproduced below:

- (i) Ongoing survey and settlement operations should be expedited.
- (ii) Lowest level revenue functionaries should be strengthened by rationalising their jurisdiction. These persons may be given orientation training and refresher courses from time to time to reorient their attitudes towards various programmes.
- (iii) The Schemes of Revenue Department should be brought under the Plan. Realising the fact that the State Governments are not paying adequate attention to strengthen the revenue administration due to a variety of reasons, namely, high establishment cost, time consuming processes, it was felt that the Government of India should provide central assistance to States in the matter of strengthening of revenue administration.
- (iv) Given the diversity in the land record systems in the States, it is not possible to have a uniform format of land records. However, the land record formats across the country should contain the basic statistics.
- (v) Patta Pass-Book may be issued to the landlords and the tenants. These Pass-Book holders shall have legal status to their rights/title.
- (vi) Computerisation of land records may be taken up on a pilot basis in each State. This project shall be funded wholly by the Centre.
- (vii) The Central Government should help the States in a big way for strengthening of revenue administration and updating of land records and its modernisation by induction of new technology including computerisation.
- (viii) A central scheme under implementation should be continued in Eighth Plan with greater allocation. The present pattern of sharing of funds should be changed in favour of greater contribution from the Centre considering the paucity of resources available to the States.

- (ix) A National Land Revenue Commission should be set up with the mandate to suggest in consultation with each State how the land revenue and land record administration should be strengthened and modernised and how resources technical, financial and manpower could be generated for this purpose.
- (x) There is an urgent need to rationalise and strengthen land registration offices with a view to modernise the maintenance, storage and retrieval of land registration documents.
- (xi) A technical group may evolve guidelines on how the rights and interests of tribal individuals and community should be recorded in the record of rights.

Strengthening and Modernisation of Land Revenue Administration

5.21 Land being State subject, it is primarily the duty of State Governments to properly maintain and also to make arrangements for regular surveys etc., to keep the land records up-to-date. The Government of India formulates general policies in consultation with the State Governments and also provides requisite financial assistance to the States for specific projects. The 1993-94 Annual Report of the Ministry of Rural Development mentions that the major difficulty in updating land records has been lack of adequate financial resources for infrastructural development of the Revenue Administration as also to modernise its technologies to keep pace with the huge tasks connected with land revenue administration. There has also not been any review or evaluation study to assess the efficacy of the present revenue administration system vis-a-vis various developmental programmes. However, under a Centrally Sponsored Scheme of Strengthening of Revenue Administration and Updating of Land Records started during 1987-88, the Government of India have released an amount of Rs.79.98 crores as Central share to 31 States/UTs (Statewise details in Annexure 2) till 1993-94 (Rs.24.26 crores during 1993-94 to 21 States) for purchase of equipments and strengthening of revenue machinery for the purposes of updating of land records. Information relating to pooling of funds by the concerned State Governments, financial and physical achievements and the nature of work done with the help of these funds should also be made available by the Department of Rural Development.

5.22 As a first step towards computerisation of land records the Government of India have also started providing central assistance to the States to take up computerisation of land records on a Pilot Project basis initially in one district of each State. An amount of Rs.13.77 crores (0.09 crores during 1993-94) has been released since 1989-90 till 1993-94 to 25 States (Statewise details in Annexure 3) as central share. However, the progress of this scheme in the beneficiary States shows that the amount utilised (Rs.3.88 crores) has been even less than 50% of the amount released and may be the States have not utilised their own share in

the scheme at all. The Ministry of Rural Development may ascertain from the concerned States about their share spent on the scheme.

5.23 Realising the urgency, though belatedly of attending to the task of revitalising revenue administration and land record system, the Government of India set up a seven-member committee on Revitalisation of Land Revenue Administration under the Chairmanship of Shri P.S.Appu, former Chief Secretary, Government of Bihar. The Committee which was to submit its report by the end of August, 1994 has not submitted the same so far. Considering the terms of reference of this Committee it is hoped that useful recommendations may emerge and the land revenue administration is over hauled to keep pace with the fast developing technologies and the land record systems are modernised.

Implementation of Land Ceiling Laws and Distribution of Ceiling Surplus Land

5.24 Even after more than four decades of having adopted our Constitution there are still large disparities in the socio-economic status of the haves and have-nots. One of the important indicators of socio-economic status is the extent of agricultural land holdings. Though efforts were made by the government soon after independence to frame a national land reforms policy and for the purpose appointed the Congress Agrarian Reforms committee under the Chairmanship of Shri J.C.Kumarappa which submitted its Report in the middle of 1949, the Panel on Land Reforms set up by the Planning Commission in May 1955 under the Chairmanship of Shri Gulzari Lal Nanda and subsequently the High Powered Committee of nine Members appointed by the Congress President, the policy actually took shape during the First Five Year Planning. It was proposed that the policy evolved should be such as reduces disparities in wealth and income, eliminates exploitation, provides security for tenant and worker and promises equality of status and opportunity to different sections of rural society. It was in pursuance of this realisation that the idea of putting ceiling on agricultural holdings emerged. It was envisaged that the ceiling should be imposed in such a way that above a certain maximum level the surplus land is taken away from the holders and is redistributed to the landless or to small holders based on certain priorities.

Enactment of Ceiling Laws and their Enforcement

5.25 States framed their own laws imposing different ceilings on agricultural holdings and also implemented them during various periods. In fact the land ceiling laws were enacted in two phases - one during the first two Five Year Plans before the national guidelines were laid down in 1972 and the second after the adoption of guidelines i.e. after 1972 onwards. The laws enacted before 1972 contained many loopholes which enabled the big landlords to circumvent them and retain possession of much bigger chunks of agricultural holdings than was permissible. However, after the adoption of the national guidelines many States have modified/amended

their legislations, a list of which is appended as Annexure at the end of the Chapter.

Land Ceilings - Limits fixed by various States

5.26 The following table shows the level of ceiling according to the category of land in various States:

Table 8*

Land Ceilings - Statewise limits

State	(IN ACRES)		
	Irrigated with Two crops	Irrigated with One crop	Dryland
Andhra Pradesh	10 to 18	15 to 27	35 to 54
Assam	17	17	17
Bihar	15 to 18	25	30 to 45
Gujarat	10 to 18	15 to 27	20 to 54
Haryana	18	27	54
Himachal Pradesh	10	15	30 to 70
J & K	9 to 12.5	9 to 12.5	15 to 23 in Ladakh 19
Karnataka	10 to 20	25 to 30	54
Kerala	12 to 15	12 to 15	12 to 15
Madhya Pradesh	18	27	54
Maharashtra	18	27	54
Manipur	12	12	15
Orissa	10	15	30 to 45
Punjab	17	27	51
Rajasthan	18	27	54 to 175
Sikkim	12.5	12.5	50
Tamil Nadu	12	30	60
Tripura	10	10	30
Uttar Pradesh	18	27	45
West Bengal	12	12	17

It will be seen from the above table that there is a lot of variation in the level of ceiling in different States. This variation is very wide in the case of Rajasthan and Himachal Pradesh where the levels are from 18 to 175 acres and 10 to 70 acres respectively. There is comparatively narrow range in the level of ceiling in respect of Manipur (12 to 15 acres), West Bengal (12 to 17 acres), J & K (9 to 23 acres) and Tripura (10 to 30 acres). There is no variation in Kerala where the same level (12 to 15 acres) is fixed for different categories of land.

The Commission recommend that it will be desirable to have as nearly uniform ceiling limits as practical in all the States which may also make efforts to bring down the land ceiling as far as possible.

*Source: Ministry of Rural Development

Allotment of Ceiling Surplus Land to Scheduled Castes and Scheduled Tribes

5.27 According to the information compiled by the Land Reforms Section of the Ministry of Rural Development, 73.52 lakh acres had been declared surplus in various States by the end of March, 1994. As against this the area taken possession of was 64.28 lakh acres (87.43%). The area distributed out of the area taken possession of was only 78.22% (50.58 lakh acres). The area distributed to Scheduled Castes, Scheduled Tribes and others constituted 35% (17.54 lakh acres), 14% (7.06 lakh acres) and 51% (25.98 lakh acres) respectively. Further, available information shows that out of total area of 73.52 lakh acres declared surplus, a significant portion (29.85%) i.e. 21.95 lakh acres was not available for distribution due to various reasons like litigation (12.90 lakh acres), land reserved/transferred for public purposes (3.67 lakh acres), land unfit for cultivation (3.55 lakh acres) and land for miscellaneous purposes (1.82 lakh acres). This shows that more than 58% of the land not available for distribution was involved in litigation in the courts of various States. The highest acreage (2.05 lakh acres) involved in litigation has been reported from Andhra Pradesh. The other States where more than 1 lakh acres of land was involved in litigation were Bihar (1.83 lakh), West Bengal (1.78 lakh), Karnataka (1.45 lakh) and Uttar Pradesh (1.33 lakh). Least area involved in litigation was reported from Orissa (13841 acres).

5.28 It will be noticed from the above analysis that quite a significant acreage (more than 58%) of the land not available for distribution to the eligible landless poor is involved in litigation. A major part of this land is held up in cases before the Revenue Courts. Some of the earlier studies have revealed that in many instances, some of these cases have not even been put up before the concerned courts. In the case of judicial courts, many cases are not even pressed for disposal for an unusually long time. As far as High Courts are concerned the proceedings there take a very long time due to pressure of work and the mounting pendency.

5.29 The Commission feels that a larger number of eligible SC and ST persons could be benefited if adequate suitable measures, executive as well as legislative are taken by the concerned States to free the land involved in litigation as expeditiously as possible and allot the same to landless rural poor including the Scheduled Castes and Scheduled Tribes.

The Commission, therefore, recommends:

5.30 State Governments having sizeable acreage of land declared surplus due to the enforcement of ceiling limits but are not able to allot it due to litigation may immediately undertake an exercise to identify and segregate such cases and set up special Land Tribunals to expeditiously dispose of these cases within a specified time limit. If necessary, monitoring cells may also be set up to watch the disposal of cases involved in litigation.

5.31 An area of 3.67 lakh acres out of the total area not available for distribution have been reserved/transferred for public purposes. The State Governments of Gujarat and Assam have reported 24952 acres and 17250 acres under this category which is very high.

5.32 In spite of repeated requests made by the Ministry of Rural Development to the State Governments not to put the area declared surplus to any other use except distributing the same to the rural poor, the practice continues. The Commission therefore, recommends that the State Government may desist from such a practice and may distribute the surplus area only to eligible beneficiaries among the rural poor including Scheduled Castes and Scheduled Tribes.

5.33 Out of the total area not available for distribution, 3.55 lakh acres have been classified as unfit for cultivation. The States of Andhra Pradesh, Assam, Himachal Pradesh, Maharashtra and West Bengal have reported high area under this category ranging from 13000 to 73000 acres.

5.34 The Eighth Plan Working Group on the Development and Welfare of Scheduled Castes had suggested that fallow land should be compulsorily taken over for allotment to the agricultural labour Scheduled Caste families on preference basis, making necessary provision in the existing laws, where necessary.

5.35 While the Commission endorses the above suggestion it is also of the view that senior officers of the district must ensure that the area declared unfit for cultivation is actually so. It is understood that the Ministry of Rural Development has requested the State Governments to conduct sample checks to see whether the area declared unfit by the lower level functionaries is really unfit. The Ministry has also suggested to allot such area for social forestry, raising of fodder etc., and also to improve fallow land by making available financial assistance to the allottees under various rural development programmes.

5.36 The Commission commends the efforts being made by the Ministry of Rural Development and would expect that the same are followed up to ensure that some tangible results are achieved in this regard.

5.37 The distribution of ceiling surplus land under point 5A of the 20-Point Programme during the year under report (Statewise) is given in the table below:

Table 9*
Point No. 05A, Distribution of Surplus Land

UNITS: ACRES

State Name	Target 93-94	Achievement 93-94	%age Ach.
Andhra Pradesh	122810	27139	22
Assam	30430	10596	35
Bihar	94000	7453	8
Gujarat	15140	2923	19
Haryana	4570	308	7
Himachal Pradesh	2870	0	0
J & K	6000	0	0
Karnataka	84270	624	1
Kerala	8240	2894	35
M.P.	64410	566	1
Maharashtra	29980	1715	6
Manipur	51	0	0
Orissa	2690	3022	112
Punjab	23040	392	2
Rajasthan	19380	993	5
Tamil Nadu	3210	3605	112
Tripura	53	0	0
U.P.	52570	3402	6
West Bengal	33330	5000	15
D&N Haveli	1004	255	25
Delhi	75	0	0
Pondicherry	440	0	0
Grand Total	598563	70887	12

VERY GOOD: Orissa, Tamil Nadu

Poor : Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, J & K, Karnataka, Kerala, M.P., Maharashtra, Manipur, Punjab, Rajasthan, Tripura, U.P., West Bengal, D&N Haveli, Delhi, Pondicherry

5.38 It is evident from the above table that progress under this scheme has been highly unsatisfactory. The overall achievement was only 12%. There was a target of distributing 5.98 lakh acres in 1993-94 against which actual distribution was 0.70 lakh acres only. There was 'nil' achievement by the States of Himachal Pradesh, Jammu & Kashmir, Manipur, Tripura and the UTs of D&N Haveli and Pondicherry. The States like Madhya Pradesh, Punjab, Rajasthan, Maharashtra and Haryana had a very low achievement ranging from 1% to 7%. Orissa and Tamil Nadu recorded an impressive 112% achievement as against the targets fixed for the year.

Financial Assistance to Assignees of Ceiling Surplus Land

5.39 Ceiling surplus land and Government waste land allotted to the rural poor including SCs and STs is usually

*Source: Ministry of Rural Development

undeveloped and is of poor quality. It cannot be immediately put to use unless it is properly developed. Since the allottees of this land come from very poor landless labourer families from the rural areas including Scheduled Castes and Scheduled Tribes they do not have adequate financial or other resources to develop the land on their own. The Government of India had, therefore, introduced a Centrally Sponsored Scheme during 1975-76 to provide financial assistance as grant to each assignee family for undertaking development of land, purchase of necessary inputs and for meeting their immediate consumption needs. Initially, an amount of Rs.500 per hectare per beneficiary was given as a grant but this amount was subsequently raised to Rs.1000 per hectare per beneficiary to be shared by the Central and the State Governments on 50:50 basis. The rate of financial assistance was again raised to Rs.2500 per hectare per beneficiary and from 1993-94, the scheme has been transferred to the State Sector in pursuance of a decision of the National Development Council taken in their meeting held on December 23-24, 1991. However upto 1992-93, an amount of Rs.59.72 crores had been sanctioned to various States as central share under the scheme. According to the information available with the Rural Development Department the States have reported a total utilisation of Rs.49.08 crores (83.85%). The physical and financial targets and achievements under this scheme during the year under report are not yet available.

Tenancy Reforms

5.40 One of the main and important components of national land reforms policy was the tenancy reforms. In spite of the accepted national policy to provide land to the tiller, many States have failed to adequately protect the rights of tillers even though many States have made legislative provisions to confer ownership rights on them. According to information available with the Ministry of Rural Development as on 25-5-93, 15 States/UTs conferred ownership rights or protected the rights of 112.13 lakh general body of tenants involving an area of 153.32 lakh acres. Though separate figures relating to the number of SC and ST beneficiaries are not available, it is presumed that these people are the major beneficiaries as majority of share-croppers and tenants belong to Scheduled Castes and Scheduled Tribes. Statewise details are given in the table below:

Table 10*

Number of tenants conferred ownership rights (for rights protected) and area accrued to them

S.No.	States	No. of tenants (in lakhs)	Area accrued (lakh acres)
1.	Andhra Pradesh	1.07	5.95
2.	Arunachal Pradesh		
3.	Assam	29.08	31.75
4.	Bihar		
5.	Gujarat	12.63	25.66
6.	Goa		
7.	Haryana	0.23	0.82
8.	Himachal Pradesh	4.01	NR
9.	Jammu & Kashmir		
10.	Karnataka	6.05	26.32
11.	Kerala	28.42	14.50
12.	Madhya Pradesh		
13.	Maharashtra	14.92	46.21
14.	Manipur		
15.	Meghalaya	Nil	Nil
16.	Mizoram	Nil	Nil
17.	Nagaland		
18.	Orissa	1.51	0.94
19.	Punjab	0.10	0.51
20.	Rajasthan		
21.	Sikkim		
22.	Tamil Nadu		
23.	Tripura	0.14	0.39
24.	Uttar Pradesh		
25.	West Bengal	13.90	NR
Union Territories			
26.	A.N. Islands	Nil	Nil
27.	Chandigarh		
28.	D & N Haveli	0.07	0.21
29.	Delhi		
30.	D & Diu		
31.	Lakshadweep	Negligible	Negligible
32.	Pondicherry	Negligible	Negligible
All India		112.13	153.32

NR : Not reported

5.41. It will be noticed from the above table that the States of Assam, Kerala, Maharashtra, West Bengal and Gujarat have given ownership rights to a large number of tenants even though Andhra Pradesh and West Bengal do not have any legislative provisions for this purpose. Many other States have also given ownership rights to the tenants in earlier years but since the reporting of the progress in this direction is not uniform by all the States, the Ministry of Rural Development compiles the figures as and when received upto a particular date for the purpose of incorporating in their Annual Report. The above information relates to the period ending with 25-5-1993.

*Source: Ministry of Rural Development

5.42 The position reflected by the above table clearly shows that tenancy reforms have not made much impact as the land in respect of which ownership rights have been given to the tenants constitutes little more than 4% of the estimated total land with the tenants. However, notable success has been achieved in recording of tenancies and in securing rights in some States like Assam, Kerala and West Bengal. In respect of other States, tenancy legislation, wherever it exists, does not provide security to the target groups as expected in the absence of any practice of recording of the enjoyment of cultivation properly in most of the areas. Even where it had been done the landlords had managed to circumvent the law under the garb of personal cultivation.

5.43 In fact tenancy reforms have not been successful because none of the basic objectives like rent should not be more than 1/5th or 1/4th of the gross produce, according permanent rights to the tenants in the land they cultivate, security to the sub-tenants/share croppers against eviction at will, a degree of permanence to the sub-tenants/share-croppers in respect of the land being cultivated by them and the landlord-tenant relationship has been achieved. It is, therefore, not only desirable but imperative for any land reforms policy to be successful that tenancy reforms are undertaken.

5.44 The Commission, therefore, recommends:

(1) All State Governments may be requested to carry out survey and settlement operations immediately to put on record all the tenants/sharecroppers and give them ownership rights/or protect their rights by enacting suitable legislation/amending the existing ones, if already exist, removing all possible loopholes/impediments to frustrate the efforts of vested interests.

(2) If possible, State Governments may also be requested to undertake special drives for a specific time period to record the interests of the tenants.

(3) A regular system of monitoring at all the levels - Tehsils, Sub-Division, District, Divisional and State level should be evolved with active participation of the beneficiary organisations. The Ministry of Rural Development at the Centre should review the progress at least once a year at the level of Revenue Minister/Secretaries.

(4) Tenancy litigation can be given to special tribunal constituted for the purpose.

Distribution of Government Waste Land and Bhoodan Land

5.45 In keeping with the main strategy of redistribution of all kinds of available lands, of the land reforms policy, distribution of large scale government wasteland has been undertaken in various States. According to an estimate of the Ministry of Rural Development mentioned in the background

papers/agenda notes prepared for the Conference of Revenue Ministers for March 14, 1992, approximately 12.95 million hectares waste land was available in the country. It is an accepted policy of the Government that the wasteland at its disposal should be distributed amongst the eligible rural poor. In pursuance of this policy an area of 127.39 lakh acres of government waste land has been reported as distributed by 20 States. This information does not pertain to the year under report but relates to the periods from 12/90 in case of West Bengal and Goa to March 92. In case of other States the reporting period varies from March 91 to November 1991. This information was compiled by the Ministry of Rural Development as made available to them by 25-5-94. Statewise position is shown in the table below:

Table 11*

<u>Distribution of Government Waste Lands</u>			
<u>Compiled on 25-5-94</u>			
<u>S.No</u>	<u>Name of the State/UT</u>	<u>Area Distributed in lakh acres</u>	<u>Period of Reporting</u>
1.	Andhra Pradesh	30.40	
2.	Assam	3.75	3/91
3.	Bihar	9.75	10/91
4.	Gujarat	13.81	9/91
5.	Haryana	0.03	1/92
6.	Himachal Pradesh	0.17	
7.	Karnataka	13.22	
8.	Kerala	4.57	3/92
9.	Madhya Pradesh	1.69	10/91
10.	Maharashtra	10.23	
11.	Manipur	0.32	
12.	Punjab	1.10	
13.	Orissa	6.64	10/91
14.	Tamil Nadu	2.07	
15.	Tripura	1.32	
16.	Uttar Pradesh	22.28	11/91
17.	West Bengal	4.32	12/90
18.	Goa	0.05	3/92
19.	Mizoram	0.74	
20.	Rajasthan	0.93	
Total		127.39	

5.46 In view of the fact that allottees of government waste land are dispossessed of the same in many cases, their lands are encroached upon and in some cases the lands had been held back by the ex-intermediaries the following measures were proposed by the Ministry of Rural Development for consideration in the Revenue Ministers Conference held on 4 March 1992, for securing larger land base for the rural poor from Government lands:

- (1) A survey of all Government waste lands should be done so as to determine the extent of Government land still available.
- (2) The survey of extent and nature of encroachments should also be completed in a time bound manner. Proceedings under land encroachment legislations should be started to evict illegal encroachers of Government land.
- (3) There is normally a tendency to permit the encroachment proceedings to linger on indefinitely. It must be recognised that the encroachment proceedings are only quasi-judicial by nature; while rights of natural justice have to be respected, speedy disposal of the cases is as important. The proceedings, therefore, must necessarily be disposed off within a prescribed time period.
- (4) The vacant Government waste land should be allotted to the rural poor of the eligible categories at the earliest possible.
- (5) The order of priorities for allotment of Government waste land should be the same as that governing the allottees of the surplus ceiling land.
- (6) Where a plot has been under encroachment, it should be allotted as soon as it is got vacated. The deed of the settlement or Pattas should be ready and possession should be handed over to the allottee as soon as the encroachment is got vacated.
- (7) Correction in the record of rights should be made prior to handing over the Patta/Deed of the Settlement.
- (8) It has been the experience in the past that incorrect allotment/settlement has often been made on account of the fact that the beneficiary organisations were not associated with the process. The established Gram Panchayats, Institutions, organisations of the beneficiaries voluntary organisations active in the area, etc., should be associated with the process.
- (9) Wherever the waste land is under the control of Gram Sabha, all assistance should be rendered to it by the administration in the fulfilment of the task. Where the Gram Sabha is dominated by the vested interest groups, the administration may exercise its authority in favour of the rural poor.
- (10) Dispossession of lawful allottees should be made a cognisable offence.

The Commission reiterates the above suggestions.

Bhoodan Land

5.47 The objective of Bhoodan movement was also to bring about equitable distribution of land by voluntary donation with the involvement of non-governmental social welfare organisations. Through the dedicated and sustained efforts of voluntary organisations the movement met with an impressive success, particularly in some States like Haryana, Uttar Pradesh, Orissa, Tamil Nadu, Gujarat and Maharashtra where the percentage of distribution of the donated land varied from 75 to 100. According to the information compiled by the Ministry of Rural Development as on 22-4-94 (reporting period vary from 10/90 to 11/92) 17 States had distributed 23.27 lakh acres of land under this category out of a total area of 45.90 lakh acres available. The overall achievement was 50%. Statewise position is shown in the table below:

Table 12*
Distribution of Bhoodan Land
(Area in lakh acres)

S.No.	States	Area			% area distributed	Period of reporting
		Donated	Distributed	Balance		
1.	Andhra Pradesh	1.96	1.02	0.94	52.0	10/90
2.	Assam	Neg.	Neg.	-	-	
3.	Bihar	21.18	7.00	14.18	33.05	6/92
4.	Gujarat	0.34	0.27	0.07	79.41	
5.	Haryana	0.02	0.02	-	100.00	
6.	Himachal Pradesh	Neg.	Neg.	Neg.	-	
7.	Jammu & Kashmir	Neg.	Neg.	Neg.	-	
8.	Karnataka	0.11	0.05	0.06	45.45	
9.	Kerala	0.02	0.01	0.01	50.00	
10.	Madhya Pradesh	4.10	2.43	1.67	59.27	
11.	Maharashtra	1.10	0.83	0.27	75.45	
12.	Orissa	6.39	5.80	0.59	90.76	11/92
13.	Punjab	0.05	0.01	0.04	20.00	
14.	Rajasthan	6.02	1.41	4.61	23.42	
15.	Tamil Nadu	0.24	0.21	0.03	87.50	11/92
16.	Uttar Pradesh	4.37	4.21	0.16	96.33	9/92
17.	West Bengal	Neg.	Neg.	Neg.	-	
Total		45.90	23.27	22.63	50.70	

As on 22-4-1994

Consolidation Holdings

5.48 For meaningful planning in any development activity relating to agriculture, particularly for increasing and improving productivity, consolidation of holdings is necessary. It is particularly significant in the case of our country where average size of agricultural holdings is not only small (less than 2 hectares, 1.69 hec) but most of the holdings belonging to marginal and small farmers are fragmented. According to information available with the

Ministry of Rural Development the consolidation operations have not been taken up in Assam while the scheme was kept in abeyance in Andhra Pradesh after January, 1992. The scheme of consolidation of holdings has since been discontinued in Uttar Pradesh since 1965. However, the total area brought under consolidation in various States amounted to 1528.76 acres (618.66 lakh hectares) as on 11-4-94. The Statewise position and the period of reporting in respect of various States is shown in the following table:

Table 13*

Consolidation of Land Holdings - Statewise

(Area in Lakh Acres)

S.No.	Name of the State/UTs	Area consolidated	Period of Reporting
1.	Andhra Pradesh	8.18 *	1/92
2.	Assam	Nil @	
3.	Bihar	49.50	6/92
4.	Gujarat	68.50	10/92
5.	Haryana	104.50	
6.	Himachal Pradesh	19.94	6/93
7.	Jammu & Kashmir	1.16 *	
8.	Karnataka	26.76	
9.	Madhya Pradesh	95.53	
10.	Maharashtra	526.50	3/92
11.	Orissa	19.96	3/93
12.	Punjab	121.72	2/93
13.	Rajasthan	42.30 (b)	
14.	Uttar Pradesh	441.87	11/91
15.	West Bengal	Nil @	1/92
16.	Dadra & Nagar Haveli	Nil @	
17.	Delhi	2.33	9/92
Total		1528.76	
		or	618.66 lakh hectares

* Scheme kept in Abeyance

@ Scheme has not been implemented

(b) Scheme discontinued from 1965

Though some of the States have made quite a good progress in consolidating the agricultural holdings it appears that the Governments of States where this scheme has not made much progress will have to take special measures to complete the consolidation operations.

5.49 The Working Group on the Development of Scheduled Castes during the Eighth Five-Year Plan (1990-95) had made the following useful suggestions for effective implementation of various land reforms measures:

- (i) It would be necessary that the enjoyment of the lands is properly brought on record retrospectively. If, necessary, tenancy laws and other provisions should be amended suitably to restore the tenancy rights to the concerned.
- (ii) Land records should be updated correctly.
- (iii) The scope of personal cultivation should be restricted, derecognising the paid labour from its purview. Also the residential qualifications should be insisted on to avoid treating absentee landlords as cultivators.
- (iv) Fallow land should be compulsorily taken over for allotment to the agricultural labour Scheduled Caste families on preference basis, making due provision in the existing laws, where necessary.
- (v) Land available with religious and charitable institutions should be subjected to the normal tenancy, etc.
- (vi) Where lands with religious and charitable institutions are leased out, at least, 50% should be earmarked for Scheduled Caste agricultural labour on mutually fair terms.
- (vii) Loopholes in the agriculture land ceiling legislation should be removed. The enjoyment of the possession of land should be verified and all land covered by benami transactions or otherwise concealed should be identified.
- (viii) Ceiling limit should be lowered, keeping in view the pressure on land and to make available land for cultivation to the landless agricultural labourer.
- (ix) Mostly, lands covered by new irrigation projects are not treated as wet land for the purpose of ceiling. The cultivation test is not taken cognisance of, generally, by the courts. This anomaly should be removed, subjecting the land holders to ceiling provisions strictly.
- (x) Allottees of ceiling surplus or Government land are generally victims of harassment by dispossession, obstruction to cultivation, etc. Invariably in such cases, the administration should defend the Scheduled Caste assignees particularly by getting themselves added as necessary parties in the litigation, etc., and
- (xi) Protecting land with Scheduled Castes as owners or allottees is essential. Very often the others try to trap the Scheduled Caste people by making them borrow money on usurious interest mortgaging the land with them. The conditions of allotment and also the debt relief provisions should be strictly enforced to

frustrate attempts of vested interests to deprive the poor Scheduled Castes of their land. Where the debt relief legislations have lapsed, they should be restored; where not existing, they should be enacted.

The Commission agrees with these suggestions and urges the Government to take expeditious action in implementing these suggestions.

Alienation of Tribal Lands

5.50 Having accepted the policy of prohibiting alienation of tribal land to non-tribals and restoring alienated land to the tribals various State Governments took legislative and executive measures for the purpose. The States having large tribal population, viz., Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Rajasthan, Tripura, Uttar Pradesh and West Bengal have enacted Acts/Regulations to prevent alienation of tribal land to non-tribals and for restoration of alienated land to the tribals. However, these laws/regulations are generally applicable to tribals living within the Scheduled and Tribal areas. Although administration of these areas is governed by special provisions available under the Fifth and the Sixth Schedules, respectively, to the Constitution, and inspite of specific provisions under various enactments passed by the State Governments to prevent alienation of tribal land, the practice continues in almost all the States having legislative and executive measures. The main reason for this state of affairs is that the laws enacted by various State Governments are not foolproof and the loopholes in them enable the unscrupulous vested interests to take advantage to harass and exploit the poor tribals. For instance, in some States like Orissa, Bihar etc., the laws contain a provision that tribal land may be transferred to a non-tribal with the approval of a competent authority. The civil courts have jurisdiction over cases of litigation involving transfer of tribal lands to non-tribals. Legal procedures are cumbersome and courts take unusually long periods in disposing off the cases when the poor tribal is completely fed up and tired and is compelled to wash off his hands over the land which is not only his mainstay but is very dear to him. It is because of these factors that in spite of available legal provisions the States have not been able to effectively check transfer of tribal lands to non-tribals and also to restore alienated lands to the tribals. Though some results have been achieved, the progress, by and large, in this respect is very slow in almost all the States as will be evident from the table below.

Table 14*

Statement showing area of tribal land alienated and restored

as on 1/95

S.No.	State	Alienation		Restoration		Possession given		Cases rejected	
		No. of cases	Area alienated	No. of cases	Area restored	No. of cases	Area Possession	No. of cases	Area invol.
1	2	3	4	5 (Col.5 to 3)	6 (Col.6 to 4)	7 (Col.7 to 5)	8 (Col.8 to 6)	9 (Col.9 to 3)	10 (Col.10 to 4)
1.	Andhra Pradesh	61649	255877	24539 (39.80)	98902 (38.65)	22571 (91.98)	91528 (92.54)	25255	122523 (47.88)
2.	Assam	2023	5174	NA	448 (8.66)	NA	NA	NA	NA
3.	Bihar	84232	102326	50450 (59.89)	43324 (42.34)	28924 (57.33)	42875 (98.96)	31096 (36.92)	47501 (46.42)
4.	Gujarat	35879	107967	30093 (83.87)	95004 (87.99)	NR	NR	3307 (9.22)	5621 (5.21)
5.	Karnataka	38763	115262	20071 (51.78)	63077	NR	NR	17476 (45.08)	48915 (42.44)
6.	Madhya Pradesh	54139	62528	1707 (3.15)	48398 (77.40)	NR	NR	29596 (54.67)	97123
7.	Maharashtra	45634	NR	20824 (45.63)	105497	19943 (95.77)	99270 (94.10)	24681 (54.08)	NR
8.	Orissa	125052	NR	43577 (34.85)	57575	NR	NR	NR	NR
9.	Rajasthan	360	1423	NR	NR	NR	NR	62 (17.50)	212 (14.90)
10.	Tripura	25434	22938	6610 (25.99)	5460 (23.80)	NR	4924 (90.18)	17176 (67.53)	16418 (71.57)

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*Source: Ministry of Rural Development

5.51 The information in the above table is not uniform in respect of all the ten States which have reported progress. The States of Bihar and Tripura have furnished information upto March 1994, Assam upto April 1994 while the States of Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh and Maharashtra have reported progress upto July, 1994. Information in respect of Orissa and Rajasthan relates to the period upto September, 1994. Information made available by the Ministry of Rural Development was compiled by them as on 1-1-95.

5.52 It is evident from the above table that all the States where alienation of tribal land is taking place are not reporting the progress of the process of restoration of alienated land and giving possession to the tribals regularly and in time. Even the ten States which have furnished information have reported incomplete information. The Commission, therefore, recommends that the Ministry of Rural Development may urge upon the concerned State Governments to report the progress in respect of alienation, restoration and possession given to the tribals in respect of their alienated lands, periodically and regularly as prescribed by the Ministry.

5.53 Since the information is not uniform for all the States, the position is discussed separately for each State.

5.54 In Andhra Pradesh, an area of nearly 2.56 lakh acres of tribal land involving 61,649 cases was reported alienated till the end of June, 1994. A very high percentage (40.96%) of these cases were rejected while land was restored only in 39.80% cases. In 91.98% of the cases restored land the possession was also given to the concerned tribals.

5.55 In Assam, land measuring 5174 acres belonging to 2023 tribals was reportedly alienated till April, 1994. The State Govt. has not furnished information relating to the number of cases rejected and those to whom the land was restored and possession given. However, area restored was only 8.66% of the total area reported alienated. Progress in respect of the programme of restoration of alienated tribal land to the concerned persons is very slow. State Government of Assam may be requested to expedite the same and also furnish complete and up-to-date information to the Ministry of Rural Development as well as to this Commission.

5.56 The number of cases rejected out of the total cases of tribal land alienation in Bihar till the end of March 1994 was 31096 (36.92%). Alienated land was restored to 59.89% cases but the area involved was only 42.34%. The State Government could not make much progress in giving possession to those tribals whose lands were restored. Available information shows that possession was given only to 57.33% of the cases to whom the land was restored though areawise the achievement was 98.96%.

5.57 The progress was fairly good in Gujarat where the percentage of cases rejected was as low as 9.22%. Information relates to the period upto June, 1994. In 83.87% cases alienated land was restored but the position regarding possession given has not been furnished.

5.58 The number of cases involving alienation of tribal land in Madhya Pradesh was 54139 upto June 1994 but the progress of restoration was very slow - only 3.15%. The percentage of rejection was 54.67, which is very high. Information about possession given has not been furnished.

5.59 The position was equally bad in Maharashtra where a large percentage (54.08%) of cases was rejected. The State Government could achieve only a success of 45.63% in effecting restoration of alienated land and 95.77% success in restoring possession to the concerned tribals.

5.60 In Orissa, 125052 cases of alienation of tribal land were reported upto the period ending September, 1994 and the restoration took place only in 34.85% of the cases. The State Government has not reported either the number of cases in which possession was given or those rejected.

5.61 Rajasthan has reported a small number (360) of cases involving alienation of tribal land till the end of September, 1994. Percentage (17.50%) of cases rejected involving an area of 14.90% of the total area alienated is low but information relating to restoration and possession given has not been furnished.

5.62 In Tripura, 25434 cases involving an area of 22938 acres of tribal land alienated were reported upto March 1994. Restoration took place in 6610 (25.99%) cases but the area involved was very small, 5460 acres (23.80%). There was a very high rate (62.53%) of rejection with an equally large percentage (71.57%) of the area involved. Though the number of cases to whom the possession was given has not been furnished by the State Government, the area restored constituted 90.18% of the total area restored.

5.63 Though above table does not contain information in respect of West Bengal, the same relating to the year, 1994 was made available by the State Government to the Secretary of this Commission who visited the State in March, 1995. According to information supplied, alienation of tribal land has been restricted under Section 13 under Chapter II A of the West Bengal Land Reforms Act. Provisions regarding restriction on transfer of tribal land to a non tribal also existed in the West Bengal Tenancy Act prior to introduction of the West Bengal Land Reforms Act, 1965.

5.64 Section 14B of this Act provides that except as provided under this Chapter Sec. 14C all transfers of tribal lands are void. Also, the provisions of this Chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act (14A).

5.65 Under Chapter IIA (Sec.14 C) transfer of land by a tribal raiyat except as provided under 14 C (a) to (e), to a non-tribal will require prior permission in writing of the Revenue Officer. Under the Act, the Special Officer, SCTW acts as the Revenue Officer. These officers at the district and Sub-Division level permit transfers only after being satisfied with the requirements of the provisions of this section.

5.66 In spite of legislative provisions existing in the West Bengal Land Reforms Act, 1965 to prohibit transfer of land belonging to a tribal to a non-tribal, alienation of such lands continued unabated year after year. During the calendar year 1994, seven hundred cases of alienation of tribal lands were reported in West Bengal of which 15 (11.7%) cases out of 128 disposed off were rejected. It is evident that the rate of disposal of cases has not kept pace with the rate of cases of tribal land alienation being received in various district of the State. However, the Government of West Bengal is reported to have vested the authority of Revenue Officer in other responsible officers at the Block level in all the districts of the State to clear the backlog of cases.

5.67 It will be seen from the above analysis that except Andhra Pradesh no other State has furnished complete information on all the items and the same is also not uniformly reported for a specific period by all the States. Moreover, except Gujarat and Rajasthan, the percentage of rejection of cases is more than 40 and in case of Tripura it is as high as 71%. The progress of the process of restoration is also not satisfactory in most of the States barring Gujarat. Though Madhya Pradesh is a State having a high tribal concentration, its achievements in restoring alienated tribal land to the tribals has been dismal (3.15%). Orissa, another State having large tribal population has also been moving slow in this regard.

The Commission, therefore, recommends:

5.68 All States reporting cases of transfer of tribal land to non-tribals must take immediate adequate measures to identify cases of tribal land alienation and set up special tribunals to expeditiously dispose of such cases, fixing responsibility on officers to restore and given possession of the restored alienated land to the concerned tribals.

5.69 It is a common knowledge that inspite of various laws /regulations existing in many States to prohibit transfer of tribal land to non-tribals, the practice continues in almost all the States having such provisions to the great disadvantage of the tribals. In fact one major drawback in all such legislations is the provision that tribal land may be transferred to a non-tribal with prior written approval of a competent authority who may permit such transfer after having satisfied himself. This provision enables unscrupulous vested interests to circumvent the law and grab the lands of poor tribals with active connivance of the concerned Revenue Officers. The Commission, therefore, recommends:

5.70 The only way to check illegal transfer of tribal lands to non-tribals is to totally ban the transfer of tribal land to non-tribals. In fact the provisions permitting alienation of tribal land with the prior written approval of a competent authority should be deleted from the legislations wherever they exist.

5.71 However, the State Government of Orissa is understood to have proposed certain such amendments to the Orissa Scheduled Areas Transfer of Immovable property (by Scheduled Tribes) Regulation, 1956 (Regulation 2 of 1956) and U/s 22, 23, 23(A) and 68(8) of the Orissa Land Reforms Act, 1960 for the benefit of Scheduled Tribes living in the non-Scheduled Areas of the State. It is learnt that after the amendments no tribal can transfer his land if by such transfer he is left with less than one standard acre of land. Moreover, there will be bar of jurisdiction of civil courts and for expeditious trial of offences under the Regulation Executive Magistrates will be conferred powers of Judicial Magistrates. There is a proposal to enhance the existing amount of penalty of Rs.200 to Rs.2000 per acre for each year of unlawful possession.

The Commission therefore, suggests that all States may review their legislations/Regulations relating to alienation of tribal lands and effective necessary amendments to plug the loopholes and also provide more stringent measure to deter prospective vested interests including punishment for the Revenue or other officers/officials who may be a party to such illegal transfers.

5.72 Tribal Development Division of the Ministry of Welfare had also suggested some useful legislative measures to be considered in the Conference of Ministers and Secretaries incharge of tribal development in States/UTs for their November 23, 1992 Conference. Some of these, which the Commission reiterates, are given below:

- (i) The States which have not yet enacted legislation to prevent alienation of tribal land may do so at the earliest. The position may be ascertained in respect of States of Goa, Sikkim, Meghalaya, Mizoram, Nagaland and UTs of Dadra & Nagar Haveli, Daman & Diu and Lakshwadeep. Where these legislations already exist, these may be implemented.
- (ii) The legal provisions for prevention of alienation and restoration of tribal land should be extended to the entire State and should not be restricted to the Scheduled and Notified Areas alone.
- (iii) The transfer of tribal land to non-tribals should be totally banned. The provisions permitting alienation with the approval of authority should be removed from the existing legislation.

- (iv) Where the tribal is compelled to dispose of his land, Government may think of purchasing the same at the prevailing market value.
- (v) The land so purchased may be settled with the eligible tribals of these areas as per the existing customary laws without the provision of 'salami'.
- (vi) Tribal land mortgaged to financial institutions or departments of the State Governments should be made non-transferable to non-tribals.
- (vii) Acquisition of tribal lands for public purposes should be minimised as far as possible.
- (viii) The term 'alienation' and 'transfer' should include all categories of transfers including benami transfer, transfer to husband, wife, sons and daughters taken in adoption, declaratory suits, transfer through marriage with tribal women, surrenders made to the State and to the ex-intermediary as well as encroachment or forcible dispossession of the tribal land.
- (ix) The jurisdiction of the civil Courts should be completely ousted both directly or through collusive and declaratory suits.
- (x) The Collector/Deputy Commissioner should be empowered under the law to take action suo moto for restoration of alienated tribal land.
- (xi) The Collector should also be competent to re-open the cases of tribal restoration where some patent error of law or gross injustice appears to have been committed without attracting either the principle of resjudicata or that of estoppel.
- (xii) The Deputy Commissioner should have the legal competence to put the person to whom the land had been restored earlier back to possession after a summary inquiry.
- (xiii) There should be provision for only one appeal and one revision in cases relating to the restoration of tribal land.
- (xiv) The onus of proving that the transaction was good under law should lie upon the transferee.

Study of Land alienation in Chhotanagpur and Santhal Parganas of Bihar State

5.73 In Bihar laws that prohibit alienation of tribal lands like Scheduled Areas Regulation Act, 1969 and the Chhotanagpur Tenancy Act, 1908 exist. Yet alienation of lands belonging to the tribals continues on a large scale pushing

the local tribals into miserable conditions. Shri Bandi Oraon, himself a prominent tribal leader and Vice-Chairperson of the National Commission for SC & ST undertook a study of the working of various legislative measures meant to protect transfer of tribal lands to non-tribals in the State. The study was confined to 15,703 cases registered in the Ranchi Collectorate in respect of tribals living in and around Ranchi city. Details about the position of these cases are given in the following table:

Table 15

S.No.	Details of cases	No. of cases	Area involved (in acres)
1	2	3	4
1.	Total number of cases registered	15,703	22,352.50
2.	No. of cases allowed	6,511	9,420.15
3.	No. of cases rejected	4,213	11,395.41
4.	No. of cases pending	4,979	1,536.98
5.	No. of cases pending in appeal	166	15,062.00
6.	No. of cases in which possession has been given	6,263	8,992.19
7.	No. of cases pending restoration of possession	248	427.96

5.74 The above table indicates that less than half (41.46%) of the total number of cases registered were only allowed and nearly 27% (26.82%) were rejected. Out of the number of cases allowed, in a little more than 96% cases (96.1%) actual possession is reported to have been given.

5.75 Though the position as revealed by the above table is not satisfactory as even less than half of the total number of registered cases were allowed restoration, the study has contested even the correctness of the information supplied by the District authorities based on thorough scrutiny of 447 cases of which the records were actually made available for study. For example, the number of cases pending restoration of possession has been shown as 248 but according to the study there were 181 such cases out of 447 cases scrutinised. The study has also adversely commented on some other anomalies like the number of cases containing orders relating to restoration and giving possession, etc. gathering dust in the Records Room of the Collectorate but having been shown as disposed off. The main findings/recommendations are listed below:

1. Immediate action must be taken to annul the order of the Govt. of Bihar treating children of tribal wives and non-tribal husbands as tribals.
2. Get the areas in and around Ranchi town, Jamshedpur and Dhanbad Towns surveyed by an honest machinery in a bigger scale to locate alienation which may exceed a lakh of acres.
3. Appoint special magistrates in Ranchi to try the pending cases and to renew the cases which have been decided against the tribals.
4. Post local officers, including D.C. and S.I., specially, in Ranchi District where land alienation has been rampant, who will restore the alienated land and check further alienation.
5. Cancel the registration of all private housing cooperatives and take back the tribal lands from them and return to the original owners
6. Return the land to the owners where the public undertakings are lying.
7. Give up the programmes of construction of major and medium irrigation projects, in Chhotanagpur and Santhal Parganas areas, which affect the agricultural lands, specially of tribals, and drains out the public money without any irrigation work. For the same reason the Koel-Karo Hydel Project should be abandoned.
8. No land be acquired for Housing Boards, either Raiyati or Gair Majurara. The vacant lands of the Board be returned to the tribal owners.
9. Return all the 29 acres of land of Konka Village to the ten Adivasi families. This land was acquired for ITI in 1984. ITI never came up and entire land has been taken by the outsiders. It lies in Lower Bazar P.S. area.
10. Many tribal religious lands have been taken by non-tribals or have been acquired. These must be given back to the tribals. These are places of Worship, called Sarna or Jaher, the graveyards called Masna lands, the produce of which were being spent over religious works which were in the possession of the Pahan or Mahto, etc.

Complaints and representations relating to matters connected with land received in the Commission Headquarters during 1993-94

5.76 During the year under report the Headquarters Office of the Commission received 239 complaints/representations from Scheduled Caste, Scheduled Tribe individuals and their associations in respect of their various grievances relating

to land matters: Of these, 89 complaints/representations did not require any action. The subject matter-wise break up of the remaining 150 cases on which the Commission initiated action is as follows:

- | | | |
|-----|--|------|
| (1) | Allotment of land including cases of encroachment/non-possession etc. | : 27 |
| (2) | Forcible eviction from land | : 59 |
| (3) | Alienation/acquisition of tribal land | : 18 |
| (4) | Homestead land/sites, etc. allotment, demarcation, forcible eviction, etc. | : 18 |
| (5) | Misc. | : 28 |

Total 150

Majority (about 40%) of the complaints/representations related to forcible eviction of SC/ST allottees of government land by high caste persons allegedly with active connivance of revenue/police officials.

5.77 The 'allotment of land' cases related mostly to illegal encroachments by upper caste persons, non-possession of the land allotted to SC/ST by Government under various programmes, incorrect/non-demarcation of the boundaries of the allotted land, etc.

5.78 Cases involving alienation/acquisition of tribal lands constituted 12% of the total number of cases received in the Commission's Headquarters. Acquisition was mainly by the governmental agencies.

5.79 Of the remaining, 28 cases were of miscellaneous nature and 18 related to matters connected with homestead land/house sites.

5.80 Some of the typical cases are briefly mentioned below:

- (1) Satpura Kisan and Mazdoor Kalyan Samiti, Baitul (M.P.) forwarded a representation requesting for providing employment to the Scheduled Tribe persons in lieu of their land having been acquired by the M.P. Electricity Board for Thermal Power Station. It was alleged that a portion of the land belonging to the Scheduled Tribes in village Baitul was acquired by M.P. Electricity Board for construction of a Thermal Power station with an understanding that some compensation would be provided to them. The amount of compensation was not sufficient to enable them to purchase land elsewhere. It had also been alleged that M.P. Electricity Board neither provided them employment nor rehabilitated them as

promised while acquiring the effected tribals' land. The matter was taken up with the District Collector Baitul who has not replied so far even after the lapse of more than one and a half year.

- (2) A representation was received from a Scheduled Caste resident of village-Hastmoli, Block-Khanpur, Tehsil and District Haridwar (U.P.) alleging that the Government land of village Hastmoli was being allotted to the residents of adjoining village Prahaladpur by the Gram Pradhan as the Pradhan himself belonged to village Prahaladpur (Panchayat being Joint for both the villages). The matter was referred to District Magistrate, Haridwar in May 1993 who informed that the Land Management Committee had been instructed to allot the land available in village Hastmoli to the residents of that village only.
- (3) A Scheduled Caste resident of village-Lalner, Tehsil-Khurja, District-Bulandshahar (U.P.) represented stating that he was allotted agricultural land in the said village under 20-Point Programme in the year 1975. It was alleged that Tehsildar/Patwari did not give physical possession of the allotted land to him despite requests made from time to time. The matter was referred to the District Magistrate, Bulandshahar in May, 1993 from whom a reply is still awaited.
- (4) A representation was received from General Secretary, Akhil Bhartiya Koli Samaj, Faridabad (Haryana) alleging that some of the Scheduled Caste residents of Machhnagar, District Faridabad, Haryana were allotted plots measuring 100 sq. yards each by Govt. of Haryana in 1976 and since then they had been in possession of these plots and also possess the registered deeds in respect of these plots. It was alleged that the village sarpanch allotted plots of one of the Scheduled Caste person to a non-Scheduled Caste person and had threatened the Scheduled Caste persons to dispossess all of them of their plots. The matter was taken up with the Deputy Commissioner, Faridabad in February 1994 and even after a follow up, a reply in the matter is still awaited.
- (5) A representation was received from Shri Medha of village Indergarh, District Rohtak (Haryana) regarding handing over of actual possession of land allotted to him by the State Government in 1979 for which he had made the requisite payment. It was alleged that the petitioner was allotted 26 bighas 12 Marley of government land and a certificate to that effect was also duly issued to him. Unfortunately the actual possession of land had not been give to him. The petitioner also stated that on Shri Ram Dutt had claimed that as per Government records, the land in question belonged to him. The petitioner has since filed a civil suit. The Deputy Commissioner, Rohtak to whom the matter was referred informed that the case was sub-judice. The latest position is awaited.

- (6) A representation was received from a Scheduled Caste resident of village Daonti, Tehsil Kandaghat, District Solan (H.P.) alledging that he was allotted Nagal land measuring 17 bighas 7 biswas in his village. After making the necessary payment the Sale-deed executed by the Deputy Commissioner mentioned only 16.10 bighas of land having been allotted to him. As against this the actual possession given to him was only of 9 bighas of land. The petitioner visited the Revenue authorities and requested them for correct demarcation of his land but nothing had been done in the matter and his cries fell on deaf ears. The matter was taken up with Deputy Commissioner, Solan for redressal of petitioner's grievance. A reply received from the Deputy Commissioner stated that the concerned village Tehsildar was always available and the allegations made by the complainant were wrong and baseless. The petitioner was informed accordingly who did not pursue the case further.
- (7) A representation was received in the Commission's Hqs. through General Secretary, All India Scheduled Castes/Scheduled Tribes Youth Association, Jahangirpur, Delhi regarding unauthorised and illegal possession of land of a Scheduled Caste by higher Caste people in village Mandas ka Bas, District Sikar (Rajasthan). It was alleged that Shri Makhan Lal (SC) had purchased a portion of land from another Scheduled Caste for Rs.8000/- and got it registered in his name in 1983, but some high caste people did not allow the petitioner to plough the land. The petitioner also filed a writ petition in the court which decided the case in his favour. The police authorities also could not evict the upper caste people. The matter was referred to the District Collector for taking immediate necessary action to get its orders implemented and restore the possession to him. No reply has been received so far.
- (8) A representation was received from a Scheduled Caste resident of Kidwai Nagar, Kanpur stating that he had purchased a residential plot in auction from Kanpur Development Authority for which he had made the necessary payment @ Rs.346/- per sq. yard. The plot was allotted to the petitioner in a special drive for Scheduled Castes. An upper caste person who had a plot opposite to that of the petitioner's illegally occupied his plot. The petitioner represented to the Kanpur Development Authority but they had not been able to give him the actual possession. The matter was referred to District Magistrate, Kanpur on 2-8-94 for facts and a detailed report in the matter. There has been no response yet from the concerned authorities even after a regular follow up.
- (9) A representation was received from a Scheduled Tribe widow resident of Dimna Road, Mango, Jamshedpur (Bihar) alleging that the agricultural land belonging to her late husband had been forcibly encroached upon by a

non-Scheduled Tribe person in connivance with the revenue authorities. The matter was referred to the Deputy Commissioner, West Singhbhum, District Chiabasa in April 1993. The reply was awaited.

- (10) A Scheduled Caste resident of village-Mahajan Purwa, District-Gonda (U.P.) alleged that the 13 Decimal land allotted to his father in 1975 by the State Govt. had been forcibly encroached upon by a higher caste person. The matter was taken up with the District Magistrate, Gonda in September 1993 who informed that action to remove the encroachment of the caste Hindu has been initiated by the Administration. Final outcome was awaited.
- (11) A representation was received in August 1993 from a Scheduled Caste widow resident of Gangashahar, District-Bikaner (Rajasthan) that her land had been forcibly encroached upon by a higher caste person and she had been dispossessed of the same. The matter was referred to District Collector, Bikaner in December 1993 for appropriate action. A reply is still awaited.
- (12) A representation was received from some Scheduled Caste and Scheduled Tribe residents of village and Post-Murar, P.S. Ramgarh, District-Hazaribagh (Bihar) through a Member of Parliament alleging that they had been residing on Garmajrua land for the past 30 years and 10 decimal land had been provided to them by the State Government as 'Basgeet' but a big part of that land had been encroached upon by a higher caste rich person with the connivance of Administration. The matter was referred to Chief Minister, Bihar in August 1993 and to Chief Secretary, Bihar in January 1995. No reply has been received so far.
- (13) A representation was received from Shri C.V.Kurumbam, Advocate High Court of Kerala alleging that the District collector Ernakulam who is a christian had illegally cancelled 1 acre 60 cents of patta land of a Scheduled Caste person r/o Aluva Taluk of District Ernakulam (Kerala) without serving any notice. It was also alleged that the file pertaining to cancellation of patta/property was still lying with the Collector. The matter was taken up with the concerned authority for the facts of the case and suitable action in January 1995. A final reply from District authorities in the matter is still awaited.
- (14) A scheduled caste resident of village Umra, District Barmer (Rajasthan) sent a representation requesting for Commission's intervention to get the land regularised in his name which he had been ploughing for the past 20 years and had also been paying the tax for the said land. He stated that his repeated requests to the Revenue authorities to issue necessary orders for regularising the land in his name had not borne any fruits. The matter was taken up with the District

Magistrate, Barmer, on 15-10-93. The District Magistrate, Barmer informed that the matter had been referred to the Regularisation Committee for taking suitable action in the matter. The final reply is however still awaited.

- (15) A representation was received from some Scheduled Caste residents of Harijan Basti, village-Masoodpur, P.O. Mahipalpur, New Delhi alleging that the Delhi Development Authority had issued to them notice to vacate the land on which they had been residing since 1962 under the pretext that the land had been acquired by the DDA and it proposed to demolish the Harijan Basti in near future. The matter was referred to Vice-Chairman, Delhi Development Authority, New Delhi in September, 1993. A reply is yet to come.
- (16) A Scheduled Tribe resident of village Bajpur, Tehsil-Gadarpur, District-Nainital (U.P.) stated that he had taken a loan of Rs.48000 from a Nationalised Bank to purchase a Tractor. Due to non-payment of loan his land measuring 28 Bighas 17 Biswas and 21 Bighas 18 Biswas was auctioned by the Revenue authorities which was purchased by 3 higher caste persons with the collusion of revenue officials. His tractor was also taken away by the revenue authorities. The cost of land auctioned by the authorities was much more than the amount of loan. The matter was referred to the Revenue Secretary, Govt. of UP in June 1993 from whom a reply was still awaited.

5.81 The position regarding response of Government authorities to the communications from this Commission relating to grievances of SC/ST persons is evidently indicative of their lack of concern to the cause of these persons. Out of the above sixteen typical cases no reply had been received from the concerned authorities in respect of 13 cases. Out of the remaining three cases, one was reported to be sub-judice and the Commission's intervention in the other two cases got them the requisite relief.

5.82 The Commission is constrained to observe that the State Government authorities, particularly at the district level do not pay adequate attention to the grievances of Scheduled Caste and Scheduled Tribe persons. Their lack of compassion and due concern for the cause of these poor aggrieved persons must change if we sincerely wish to bring about a change in the plight of this section of society. The Commission, therefore, suggests that all State Governments should send suitable directives to the field officers to promptly and duly respond to the communications from this Commission, particularly relating to various grievances of SCs and STs. If unduly long time is taken even in furnishing facts of the various cases, the time taken for redressal of the grievances could be indefinite.

Annexure 1

Progress Report (Cumulative) on implementation of Land Ceiling Laws for the Period Ending March 1994

(Area in acres)

S.No.	States/UTs	Area declared Surplus	Area taken possession of	Area distri- buted to individual	No. of bene- ficiaries	S.C. Beneficiaries		S.T. Beneficiaries		Other Beneficiaries	
						Area in acres	No. of benef- iciaries	Area in acres	No. of benef- iciaries	Area in acres	No. of bene- ficiaries
1	2	3	4	5	6	7	8	9	10	11	12
1.	Andhra Pradesh	\$ 800968	571632	510969	437176	218781	189614	101543	77662	180665	169900
2.	Assam	612380	575837	482868	424364	44138	42364	57389	40964	381341	341036
3.	Bihar	474621	399932	278719	330101	162482	199255	38128	40631	78109	90125
4.	Gujarat	2480320	156003	130335	29814	80552	13007	28685	12871	210990	38560
5.	Haryana	121409	115935	113124	38018	49738	17657	0	0	63386	20361
6.	Himachal Pradesh	284053	281462	3340	4400	2305	2934	139	261	896	1205
7.	Jammu & Kashmir	455575	450000	450000	450000	0	0	0	0	450000	450000
8.	Karnataka	273878	159716	117153	72084	70346	45012	3002	1573	43805	25499
9.	Kerala	136363	94330	64078	143763	25108	61530	5152	7353	33818	74880
10.	Madhya Pradesh	288572 @	256580 @	185673	72209	49752	21601	73516	26991	62405	23617
11.	Maharashtra	723103	648366	556806	139457	160236	41781	101049	28351	295521	69325
12.	Manipur	1830	1685	1682	1258	128	96	97	72	1457	1090
13.	Orissa	174007	162573 @	151242	130880	48184	44959	63362	48695	39696	37226
14.	Punjab	133876	105153	102406	26634	41801	10072	-	-	60605	16562
15.	Rajasthan	609646	552423	440624	76762	139057	28246	44178	10737	257389	37779
16.	Tamil Nadu	184972	171114	149650	124834	59607	56435	233	178	89810	67771
17.	Tripura	1995	1944	1598	1424	212	256	448	359	933	809
18.	Uttar Pradesh	542618	511028	368174	320120	250581	217932	1332	745	116261	101443
19.	West Bengal	1270640	1201684	941382	2059576	349630	764836	180775	395429	410977	899311
20.	D & N Haveli	9406	9305	6811	3313	48	25	6760	3286	3	2
21.	Delhi	1132	394	394	654	277	495	0	0	117	159
22.	Pondicherry	2355	1207	1022	1359	612	797	0	0	410	562
Total :		7351431	6428393	5058070	4887750	1753580	1758984	705788	696158	2598702	2432608

@ Area divested as a result Court Orders.

\$ The State Govt. has furnished QPR for the quarter ending June 1993. The information furnished therein is not correct. Therefore, earlier figures have been retained.

Source: Ministry of Rural Development

Annexure 2

Centrally Sponsored Scheme of Strengthening of Revenue Administration & Updating of Land Records-
Release of Central share since inception of the Scheme in 1987-88 (Rs. in Lakhs)

	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	Total
1. Andhra Pradesh	-	-	100.00	-	-	-	-	100.00
2. Arunachal Pradesh	-	-	-	1.00	-	-	-	1.00
3. Assam	-	-	100.00	50.00	-	40.00	42.125	232.125
4. Bihar	100	-	-	150.00	-	-	45.85	295.85
5. Gujarat	-	-	-	100.00	-	248.70	-	348.70
6. Goa	-	-	-	30.00	4.00	-	15.69	49.69
7. Haryana	-	-	50.00	50.00	25.00	-	78.00	203.00
8. Himachal Pradesh	-	-	-	110.00	-	-	36.00	146.00
9. Jammu & Kashmir	-	-	100.00	-	-	120.00	97.00	317.00
10. Karnataka	-	-	-	7.50	100.00	-	108.00	215.00
11. Kerala	-	-	100.00	75.00	-	54.68	106.20	335.88
12. Madhya Pradesh	-	296.64	-	12.45	143.975	351.89	235.32	1040.275
13. Maharashtra	-	-	-	189.84	10.75	87.66	-	288.25
14. Manipur	-	-	15.00	-	-	-	45.175	60.175
15. Meghalaya	-	-	-	50.00	-	-	-	50.00
16. Mizoram	-	-	15.00	-	29.50	22.10	29.65	96.25
17. Nagaland	-	-	-	17.50	6.50	7.70	37.95	69.65
18. Orissa	100.00	-	-	-	55.215	90.00	110.40	355.615
19. Punjab	-	-	-	162.50	165.87	206.45	380.255	1115.075
20. Rajasthan	-	-	100.00	70.00	43.48	189.15	103.865	508.435
21. Sikkim	-	-	-	16.00	-	-	-	16.00
22. Tamil Nadu	-	-	100.00	10.00	74.00	62.88	75.35	322.23
23. Tripura	-	-	15.00	-	-	-	10.625	25.625
24. Uttar Pradesh	-	-	100.00	-	-	281.89	530.04	911.93
25. West Bengal	-	-	103.31	200.00	173.75	110.90	92.50	680.46
26. A & N Islands	-	-	-	10.68	-	20.85	-	31.53
27. Chandigarh	-	-	-	15.00	17.00	-	-	32.00
28. D & N Haveli	-	-	-	-	-	-	25.00	25.00
29. Delhi	-	-	-	25.00	17.00	-	-	42.00
30. Daman & Diu	-	-	-	-	6.50	-	-	6.50
31. Lakshadweep	-	-	-	-	-	-	-	-
32. Pondicherry	-	-	-	10.00	32.88	-	18.88	61.76
Total	200.00	296.64	898.31	1362.47	905.42	1894.85	2425.815	7963.505

Source: Ministry of Rural Development

Annexure 3

Release of funds and their utilisation for computerisation of Land Records since inception
1988-89 to 1993-94

S.No.	Name of State/UT	Releases						Total Releases	Utilisation
		1988-89	1989-90	1990-91	1991-92	1992-93	1993-94		
1.	Andhra Pradesh	25.00	-	-	-	-	78.00	103.00	25.00
2.	Arunachal Pradesh	-	-	-	-	-	-	-	-
3.	Assam	25.00	-	-	-	-	33.00	58.00	25.00
4.	Bihar	20.00	-	-	-	-	3.00	50.00	20.00
5.	Gujarat	25.00	-	-	-	-	10.00	35.00	15.03
6.	Goa	-	-	-	-	-	15.00	15.00	-
7.	Haryana	-	15.00	6.00	-	-	19.00	40.00	17.48
8.	Himachal Pradesh	-	25.00	-	-	-	15.00	40.00	19.15
9.	Jammu & Kashmir	-	25.00	-	-	-	4.00	29.00	NR
10.	Karnataka	-	-	25.00	-	-	43.00	68.00	24.96
11.	Kerala	-	-	25.00	-	-	40.00	65.00	NR
12.	Madhya Pradesh	3.00	-	3.00	-	-	45.00	78.00	33.00
13.	Maharashtra	25.00	-	-	-	-	60.00	85.00	19.81
14.	Manipur	-	-	25.00	-	-	-	25.00	25.00
15.	Meghalaya	-	-	-	-	-	-	-	-
16.	Mizoram	-	-	-	-	-	15.00	15.00	-
17.	Nagaland	-	-	-	-	-	-	-	-
18.	Orissa	32.50	-	-	-	-	55.00	87.50	32.50
19.	Punjab	-	-	25.00	-	-	53.62	78.62	25.00
20.	Rajasthan	10.00	10.00	5.00	-	-	50.00	75.00	25.00
21.	Sikkim	-	-	-	12.00	-	-	12.00	9.00
22.	Tamil Nadu	-	25.00	-	-	-	83.00	108.00	24.30
23.	Tripura	-	-	25.00	-	-	40.00	65.00	12.61
24.	Uttar Pradesh	-	25.00	-	-	-	75.00	100.00	10.12
25.	West Bengal	-	25.00	-	-	-	85.00	110.00	25.00
26.	A & N Islands	-	-	-	-	-	-	-	-
27.	Chandigarh	-	-	-	-	-	-	-	-
28.	D & N Haveli	-	-	-	-	-	12.38	12.38	-
29.	Delhi	-	-	-	8.03	-	-	8.03	NIL
30.	Daman & Diu	-	-	-	-	-	-	-	-
31.	Lakshadweep	-	-	-	-	-	-	-	-
32.	Pondicherry	-	-	-	-	-	15.00	15.00	-
Total		192.50	150.00	139.00	20.03	-	876.00	1377.53	387.90

Source: Ministry of Rural Development

CHAPTER VI

SERVICES SAFEGUARDS

The policy with regard to reservation of posts and services under the State in terms of Article 16(4) of the Constitution of India continued for the Scheduled Castes and Scheduled Tribes both in direct recruitment and promotions. Reservation for Socially and Educationally Backward Classes was introduced with effect from 8-9-1993 as a part of implementation of the Mandal Commission's recommendations. Efforts were intensified by the Government of India to increase the representation of SC and ST in services under the Government of India, Public Sector Enterprises and Nationalised/Public Sector Banks during the year under report by launching a special drive to make good the shortfalls in various categories of posts through recruitment and reserving vacancies to the maximum extent (50%) permissible under the Supreme Court ruling on the matter.

6.2 The comparative position of SC & ST employees vis-a-vis the total number of employees under the Central Government, Public Enterprises and Nationalised/Public Sector Banks, groupwise, as on 1-1-1993, is stated below:

Table 1

Central Government

Group	Total	SC	%age	ST	%age
1	2	3	4	5	6
A	64,197	6,293	9.80	1,967	3.06
B	1,07,120	13,036	12.17	2,513	2.35
C	23,09,003	3,67,401	12.91	1,25,424	5.43
D (excluding Sweepers)	10,49,703	2,17,617	20.73	72,164	6.87
Total	35,30,023	6,04,347	17.12	2,02,068	5.72
Group D Sweepers	1,33,305	85,785	64.35	4,940	3.71
Grand total	36,63,328	6,90,132	18.84	2,07,008	5.65

6.3 While there is a perceptible improvement in the representation of SC in Central services, the position about ST remains unsatisfactory. This is generally attributed to the general reluctance of the tribal population to move away from their areas of habitation which are often remote and inaccessible. There is considerable scope for improvement if, taking advantage of the Government of India instructions that ST employees should as far as practicable be posted near their home towns, the Railways, the Department of Posts, the Department of Telecommunications, etc., having establishments in remote areas, recruit personnel from tribal areas by deputing special teams at least for Group C and D posts and offer them jobs near their home towns.

6.4 A recent study made by the Commission in the NMDC units located in remote tribal areas of Bastar District in Madhya Pradesh indicated that even for Group C and D posts persons were appointed from outside those areas through manipulated registration with the local Employment Exchange at the instance of senior officers, who also happened to be from outside, although there was acute shortage of employment opportunities for the local tribal population. Instructions, therefore, need to be issued that all the establishments under the Central Government located in remote tribal areas may recruit staff against Group C and D posts from the local tribal population only.

Public Enterprises

6.5 The number of SC & ST employees under the PSUs has been found to be about 554 lakhs as compared to the total employees numbering 2,110 lakhs on 1-1-93 which is more than 26% of the total employees on that date. The groupwise details may be seen as under:

Table 2

Public Sector Undertakings

Group 1	Total 2	SC 3	%age 4	ST 5	%age 6
A	1,91,236	14,088	7.37	3,600	1.88
B	1,62,250	14,794	9.12	5,473	3.28
C	11,97,782	2,24,074	18.71	1,00,852	8.42
D(excluding Sweepers	5,33,646	1,16,878	21.90	52,075	9.76
Total	20,84,914	3,69,834	17.74	1,62,000	7.77
Group D Sweepers	25,362	21,606	85.19	801	3.16
Grand total	21,10,276	3,91,440	18.55	1,62,801	7.71

Even though the overall percentages have been achieved in respect of SC & ST in services under the public sector, their representation in Group A and B posts continues to remain on the lower side. It is a well known fact that there are limited induction levels in the PSUs and majority of the posts are filled either by promotion or by circulating those posts within the organisation without allowing any opportunities to other candidates. In the absence of any induction at the middle levels there is hardly any chance of improvement in the present situation when majority of the organisations have reached a saturation point and not much of expansion is occurring. Some improvement is, therefore, possible if stress is laid on induction at the middle levels.

Public Sector and Nationalised Banks

6.6 Only after the banking industry was nationalised in 1969 reservation for SC & ST in services was introduced in the banking institutions. The application of reservation orders was restricted to direct recruitment only. In regard to promotion posts the managements were reluctant to allow reservation for SC & ST on the plea that the promotion policies in the banks were based on certain agreements with the trade unions of the employees under the Industrial Disputes Act, which could not be modified without the consent of the unions and were binding on the management. In order to ensure that the stand of the banking sector was in conformity with the Government of India policy of safeguarding the interests of SC & ST at promotion stages, it was recommended in the Reports of the Commissioner for SC & ST for the years 1975-76 and 1976-77 that the Dept. of Banking should take urgent steps to persuade the managements of the Nationalised/Public Sector Banks to fall in line with the Public Sector Enterprises by accepting the principle of reservation in promotion posts also. It was also emphasised that the agreements between the bank managements and the employees' trade unions should be suitably modified so that these did not come in the way of implementation of reservation orders in posts filled by promotion. Subsequently the Dept. of Banking (now Banking Division of the Dept. of Economic Affairs) issued instructions on 31-12-1977 to all the Nationalised and Public Sector Banks to ensure application of reservation orders to promotion posts as well.

6.7 As a result of the implementation of reservation orders effectively the representation of SC & ST employees in the services under the banks improved progressively. As per the latest information available the representation of SC is quite good in the clerical and subordinate categories. In the case of officers the position of SC is slightly better than what exists in services under the

Central Government and the Public Sector Undertakings. The available information as on 1-1-1994 showing the representation of SC & ST in the services under the Nationalised/Public Sector Banks including financial institutions is given below:

Table 3
Nationalised/Public Sector Banks

Cadre	Total includ- ing SC&ST	SC	%age	ST	%age
1	2	3	4	5	6
Officers	2,49,016	25,515	10.24	8,333	3.34
Clerks	4,70,873	68,051	14.45	21,500	4.56
Sub-staff (excluding Sweepers)	1,81,619	42,313	23.30	10,609	5.84
Total	9,01,508	1,35,879	15.07	40,442	4.48
Sweepers	34,200	17,785	52.00	1,810	5.29
Grand Total	9,35,708	1,53,664	16.43	42,252	4.66

It would be seen from the above table that the representation of ST is still very poor even at the level of subordinate staff and needs to be urgently reviewed in the Banking Division of the Ministry of Finance for remedial measures.

6.8 Reservation in promotion in services under the banks is restricted only to scale I, i.e., in promotion from clerical posts to officers' grade. There is no reservation within officers' category even when promotions are based on seniority-cum-fitness criterion, on the plea that there is always an element of selectivity while considering candidates for promotion either based on written tests or through interview, as per the directions of the Banking Division. The Reserve Bank of India scheme of promotion based on 'seniority-cum-suitability' is covered by the reservation policy upto grade C, i.e., Scale III. Suitability of candidates being considered for promotion is normally judged either based on an examination or interview. Promotions of Staff Officers from Grade A to Grade B under the All India merit test and those from Grade C to Grade D and beyond in the RBI are based on selection. It is, therefore, clear that promotions under the merit test only under the RBI are treated as selection and not made through interviews only. In view of this position it is recommended that the instructions of the Banking Division that the promotion process involving interviews would be treated as selection, need to be reviewed and withdrawn so that in promotions within the officers' grade covered by the seniority criterion due reservation is allowed in the banks.

University Services

6.9 The University Grants Commission (UGC), which is a statutory body set up under the UGC Act, 1956, is charged with the responsibility to take such steps as it may think fit, in consultation with the Universities and other bodies, for promotion and coordination of University education. Since the Government of India are dealing with the Universities through the UGC, the Government instructions on reservation for SC & ST could not be issued and implemented in the Universities prior to 1975 when the UGC in a circular letter issued to the Vice-Chancellors in August 1975 had agreed in principle that reservation might be provided for SC & ST in recruitment to posts of Lecturers in the Universities and Colleges. Several circulars on the subject of reservation in admission/appointment from the UGC to the Universities followed. The revised percentages of reservation for SC & ST @ 15% and 7½% respectively were also communicated to the Universities in August 1982 with the instruction to apply those percentages in admission to various courses of studies and appointment to non-teaching posts and also teaching posts upto the level of Lecturer/Asst.Professor.

6.10 In his Report for the year 1986-87 the Commissioner for SC & ST had observed that the representation of SC and ST in the teaching jobs in the Central Universities was insignificant. Even at the level of Lecturers, where reservation orders had been made applicable in the Central Universities, the position was far from satisfactory. In the case of the State Universities also the representation of SC and ST was found to be insignificant at all levels in the teaching posts. An effort was made to collect the latest information about the representation of SC and ST in both teaching and non-teaching posts under the Central/State Universities. Statistical information as on 1-1-1993 showing the representation of SC and ST could be collected from all the Central Universities except the Indira Gandhi National Open University and the same has been summarised in the table below:

Table 4
Central Universities

Category	Total number including SC&ST	SC	%age	ST	%age
1	2	3	4	5	6
(a) <u>Teaching posts</u>					
(i) Professors	1,155	2	0.17	6	0.52
(ii) Readers/Associate Professors	1,774	6	0.34	16	0.90
(iii) Lecturers/Asstt. Professors/ Directors of Physical Education	1,491	35	2.35	48	3.22
(iv) Research Associates/Tutors/ Demonstrators	257	3	1.17	2	0.78
Total	4,677	46	0.99	72	1.54

(b) <u>Non-teaching posts</u>					
(i) Group A	756	26	3.44	32	4.23
(ii) Group B	1,525	49	3.21	86	5.64
(iii) Group C	9,001	414	4.60	526	5.84
(iv) Group D	10,635	2,368	22.27	672	6.32
Total	21,917	2,857	13.04	1,316	6.00

Statement showing the representation of SCs and STs in Central Universities in both teaching and non-teaching posts (University wise) may be seen in appendix.

6.11 It would be seen from the above table that the representation of SC & ST both in teaching and non-teaching posts is extremely poor except in the case of Group D ministerial posts. This has been basically due to the lukewarm attitude of the authorities in the Union Dept. of Education which did not take any action on the recommendation of the Commissioner for SC & ST to go in for legislation to make it mandatory for the Universities to follow reservation orders issued by the Government of India from time to time. The UGC which had agreed in principle to compile instructions in the form of a Brochure to be made applicable uniformly to all the Central/State Universities also failed to take steps in that direction. Instead, it appears, the UGC set up a High Power Committee to go into the question of legal implication of the implementation of reservation policy, as nine out of ten Central Universities could not properly implement the Constitutional guarantee on quotas for SC & ST because

there was no statutory provision for it in the University Acts. The High Power Committee recommended to make job quotas for SC & ST legally binding on the Central Universities. In line with the recommendation of the Commissioner for SC & ST in his 27th Report, the Committee, pointing out the existing legal lacuna, asked the Government to frame a mandatory reservation policy for administrative/teaching jobs in the Central Universities and fix the responsibility for implementing the legislation on the University authorities including the Vice-Chancellors. The Dept. of Education, however, did not take any decision on the recommendation. In view of the position explained above it is felt that without strict observance of the reservation orders, including ban on dereservation of reserved posts in direct recruitment in general and in respect of posts of Lecturers in particular, it will be extremely difficult to get adequate number of SC & ST persons for teaching jobs in the Universities/Colleges. It is, therefore, reiterated that the relevant provisions of the University Grants Commission Act and the University Acts should be suitably amended to achieve the objective of providing reservation for SC and ST at various levels as allowed by the Government of India in terms of the Constitutional provisions.

6.12 The Parliamentary Committee on the Welfare of SC and ST (Eighth Lok Sabha) in their 43rd Report had observed that the resolution of the UGC adopted in 1975 for carrying forward of vacancies reserved for SC & ST in the category of Lecturers had not been followed by the Central Universities, on the plea that the teaching posts could not remain vacant for a long period. In the Committee's opinion carry forward of vacancies does not mean non-filling of such posts. It simply means that if an SC/ST candidate is not available in a particular recruitment year, the post may be filled by a general category candidate on ad hoc basis and in the subsequent years efforts should be made to fill up the carry forward vacancy alongwith other vacancies that may arise. The enormity of the injustice done to SC & ST in the absence of the practice of carry forward of reserved posts can be gauged from the fact that out of 220 Lecturers appointed in the Banaras Hindu University during the years 1984, 1985 and 1986 none belonged to SC/ST. The Committee recommended that the practice of carry forward of posts reserved for SC & ST in the category of Lecturers should be introduced in all the Central Universities as provided in the Government directives on the subject so that SC/ST candidates got their due share in appointment to the cadre of Lecturers in the Central Universities.

6.13 The matter regarding implementation of the reservation policy in favour of SC & ST including dereservation of vacancies was reviewed at the meeting of

the Registrars of the Central Universities with the representatives of the Union Dept. of Education and the UGC on 28-8-1992 and the following decisions were taken:

- (i) The Universities while inviting applications for filling up vacancies should clearly indicate the number of vacancies reserved for SC/ST candidates.
- (ii) Since there is complete ban on dereservation of vacancies reserved for SC/ST, the reserved vacancies will have to be carried forward to subsequent recruitment years. Under no circumstances such unfilled vacancies should be filled up by general candidates. The unfilled vacancies, thus carried forward, will remain unfilled till these are filled by SC/ST candidates who possess the minimum qualifications prescribed by the UGC. The UGC should issue instructions to this effect to all the Universities for strict adherence. The above decision will apply to all categories (teaching and non-teaching) while filling up the vacancies reserved for SC & ST.
- (iii) So far as non-teaching posts are concerned the instructions issued by the Government of India may be followed by the Universities.

6.14 At the meeting of the Vice-Chancellors of the Central Universities with the representatives of the Government of India and the UGC on 11-1-1993 the following decisions were, inter alia, taken:

- (i) The policy of the Government will have to be implemented and all efforts should be made to clear the backlog for which Special Recruitment Drive should be launched by the Universities keeping in view the instructions of the Government of India in this regard. Advertisements for this purpose shall be given in the national dailies, the Employment News, the University News and also over AIR and Doordarshan.
- (ii) It was clarified that the Government of India instructions for providing reservation in Class I posts also applied to teaching posts and the Universities should clearly indicate the number of vacancies reserved for SC & ST while inviting applications for filling up the posts. The best amongst the SC/ST candidates, who possess the prescribed qualifications, could be recommended for appointment against the reserved vacancies.

- (iii) The Central Universities should make all efforts to clear the backlog where there is under-representation of SC/ST in the matter of appointments (at the level of Lecturers and the non-teaching posts).

6.15 It is hoped that the above instructions are implemented scrupulously by all the Central Universities to improve the representation of SC & ST in services under them. The Commission also recommends that similar steps may be taken by the State Universities. It is further recommended that uniform instructions need to be compiled by the UGC with detailed guidelines to be followed by the Universities in the matter of recruitment/promotions and issued to all the Universities for strict compliance. Suitable returns also need to be prescribed for submission to the UGC by the Universities to ensure compliance of the guidelines and instructions.

**Time bound promotion under
Indian Telephone Industry, Bangalore**

6.16 As per the Government of India Instructions reservation has been provided for SC & ST @ 15% and 7½% respectively both in direct recruitment on all India basis and promotions. While the aforesaid policy was continuing, a new policy of promotion called the 'Time Bound Promotion Policy' was evolved and agreed to between the employees' unions and the managements in a number of Public Sector Undertakings to switch over from the vacancy based scheme of promotions to the time bound promotion scheme. The time bound promotion schemes as adopted by some of the PSUs have substantially increased the eligibility condition in terms of the number of years of service. While examining the new concept of time bound promotions, the Bureau of Public Enterprises (BPE) clarified to the public enterprises, which had already introduced the new scheme, that they might ensure that the new scheme satisfied the following conditions:

- (i) All employees are promoted to the next higher grade, scale or level on completion of the prescribed length of service without linking the promotions to availability of vacancies in the higher posts. In other words, the promotions under time bound promotion schemes are not vacancy based.
- (ii) There is no element of selection or inter-personal comparison of merit in promotions under this scheme. However, the scheme would not be vitiated if it permits rejection of the unfit on well-defined criteria.

6.17 A similar promotion policy based on time bound concept was evolved by the Indian Telephone Industry and agreed upon between the ITI management and the ITI Employees' Union under a memorandum of settlement dated 22-9-79. Under this policy all the employees were entitled to get promotion to the relevant cadre on completion of the prescribed number of years of service. The SC/ST employees of the ITI had been representing to the Commission against the new policy introduced by the ITI. Their grievance has been that as a result of this policy reservation of posts in favour of SC & ST came to an end. The SC/ST persons could get promotion only after completion of the specified number of years in service and without reservation. Thereby the comparative advantage which the SC/ST employees were enjoying under the earlier promotion policy was taken away under the new policy and all the employees, viz., the SC/ST employees and those belonging to the general category, were placed at par. The ITI SC/ST Employees' Welfare Association filed a writ petition (No.5700/90) in the High Court of Karnataka which gave its verdict in 1990 and directed the ITI management to take steps to ensure that the members of SC & ST working in various cadres of all the establishments of the ITI secured promotions not less than 15% and 7½% respectively, even under the time bound promotion scheme on the lines of the Government of India instructions, with effect from the date the time bound promotion scheme was implemented by the ITI. The High Court further directed the ITI to give all consequential benefits to the employees belonging to SC & ST and possessing the other conditions of eligibility in accordance with law.

6.18 The ITI management filed a Special Leave Petition against the orders of the Hon'ble High Court of Karnataka in Civil Appeal No.4672 to 4675 of 1990 before the Supreme Court of India against the above direction of the Court. It contended that implementation of the judgment of the High Court of Karnataka would create a lot of complications in the matter of industrial-labour relations. The Supreme Court of India in its order dated 18-9-1990 granted special leave to appeal and stayed the operation of the Karnataka High Court's order. At this stage Shri L.R.Naik, ex-MP, approached the National Commission for SC and ST for their intervention. Shri Naik also met the Chairman of the Commission on 30-8-93 in this connection. The Commission suggested to the Ministry of Welfare and the Dept. of Personnel & Training (DoPT) to consider whether they would like to file a petition in the Supreme Court of India, seeking to implead themselves as parties to protect the interests of SC/ST who had won the case in the High Court of Karnataka. The Commission felt that contesting the case in the Supreme Court of India against the management was

practically impossible for the SC/ST employees as they were not in a position to bear the huge expenditure involved. The Commission further impressed upon the Ministry that, when the SC and ST Employees' Welfare Association had won the case on merits in the High Court of Karnataka, the ITI management which was expected to protect the interests of SC & ST should have adopted a neutral position rather than fight against their own SC/ST employees. The Commission also expressed the view that where SC & ST got a favourable court verdict the management should not be permitted to go in for appeal at public cost, and that if at all it was affecting some of the employees, they might seek redress from the higher court, rather than the management should side with them against the interests of SC & ST.

6.19 The DoPT which is the nodal agency to issue instructions on reservation matters in services under the Government reported that since there were some serious implications in the implementation of the judgment of the Karnataka High Court, the ITI management had to file an SLP before the Supreme Court of India. The DoPT further informed the Commission that the Supreme Court had upheld the view of the ITI in the case and set aside the order of the High Court of Karnataka. The DoPT, while justifying their action, felt that it might not be appropriate for them to fetter the legal rights of the management as a favourable verdict sometimes obtained in a lower court might not be justified in terms of law. The Ministry of Welfare did not respond.

6.20 The outcome of the case went against the SC/ST employees of the ITI and for that matter of other organisations as well, but the fact remains that SC/ST employees were no match against the powers of the management in terms of money and legal advice. The Commission is firmly of the view that where SC/ST employees get a favourable judgment from a Court the management should not be permitted to go in for appeal at public cost. If at all, it was affecting other employees they might seek redress from a higher court, rather than the management, which is expected to protect the interests of SC & ST, should side with other employees against the interests of SC & ST.

Vacancies which should be taken into account for drawing of the Select List for promotion

6.21 According to the Government of India instructions reservation in promotion applies only to regular vacancies. It is, therefore, essential that a select list for promotions should be drawn up after carefully assessing the number of vacancies as accurately as possible. The instructions further provide that the purely short term vacancies should not be taken into account for this

purpose. The Directorate General of Employment & Training (DGE&T) in violation of the above instructions prepared a panel of 3 against roster points 8, 9 and 10 even though the actual number of vacancies available at that time was only 2 falling on roster points 8 and 9. This case was brought to the notice of the Commission by the affected SC employee of the DGE&T.

6.22 While investigating this case the Commission found that the vacancies in the grade of Junior Investigator under the DGE&T were erroneously increased from 2 to 3 while holding the DPC in December 1990, adding one temporary vacancy available for less than 4 months on account of an employee on deputation in the National Commission for Rural Labour on the date of the DPC meeting. Since this was not a long term vacancy for a year or more, as per the instructions of the DoPT referred to above, there was no question of treating this vacancy as a long term vacancy and preparing a panel of three persons. Had the DGE&T prepared only a panel of two persons against the 2 long term vacancies, the SC employee would have been promoted against the roster point 8. The DGE&T with whom the Commission had protracted correspondence did not agree to the observation made by the Commission and maintained that the reversion of the SC employee after the return of the deputationist was in accordance with the Government policy. The matter had to be referred to the DoPT which accepted the recommendation of the Commission and advised the DGE&T to provide for the SC employee. Then only the DGE&T rectified the position in May 1994 by promoting the SC employee retrospectively as recommended earlier by the Commission. The DGE&T also regretted the delay. It is abundantly clear that the authorities had deliberately increased the number of vacancies from 2 to 3 in violation of the Government of India instructions. It took about 3 years to convince the authorities to rectify the position. The Commission took the matter seriously and recommended to the DGE&T to fix responsibility for delaying the promotion of the SC employee and take action against the erring officer. A reply was still awaited.

Recruitment of Sweepers/Scavengers

6.23 While there is no specific reservation for the communities traditionally working as sweepers/scavengers, in services under the Government, majority of the employees under various Governmental agencies working as Sweepers come from these communities. The statistical information collected from various agencies, showing the representation of SC & ST in Group D posts of Sweepers as on 1-1-1993 is reproduced below:

Table 5

Sweepers

Agency	Total No. of Sweepers	SC	%age	ST	%age
(i) Govt. of India	1,33,305	85,875	64.35	4,940	3.71
(ii) PSUs	1,25,362	21,606	85.19	801	3.16
(iii) Nationalised/Public Sector Banks	34,200	17,785	52.00	1,810	5.29
(iv) Railways as on 1-1-94	NA	40,233	NA	2,380	NA
(v) State Govts.	NA	NA	NA	NA	NA

It is seen from the above table that about 32% of the Sweepers under the Government of India, about 12% under PSUs and about 43% under the Nationalised/Public Sector Banks belong to castes and communities other than SC & ST. In the case of the Railways this figure is believed to be much more and perhaps due to that reason separate figures showing the total number of Safaiwalas under the Railways have not been printed in their Annual Report. While there is no bar on members of other communities from seeking appointments as Sweepers, there is a tendency amongst the supervisory staff to deploy only Scheduled Caste Sweepers for performing unclean jobs of cleaning latrines, floors, etc., whereas Sweepers belonging to other castes and communities are generally deployed for other jobs. That is one reason why a number of persons belonging to the general category are prepared to accept the jobs of Sweepers under various Government agencies. This situation is more marked in the Railways where a number of higher caste persons are appointed as Safaiwalas but are actually deployed as Peons, messengers, etc. Due to this trend Scheduled Caste candidates (and some ST candidates as well) belonging to the communities traditionally engaged in the work of sweeping and scavenging are getting less opportunities for employment resulting in more unemployment amongst them. The scheme of diversification of sweepers/scavengers being implemented by the Ministry of Welfare through the State Governments may allow some opening for this section, but the initial reports that the State Governments have not shown much interest in the scheme for want of contribution from the State funds, are not encouraging. In view of the above position it is recommended that at least 75% of the posts of Sweepers should be filled only by candidates belonging to communities who are traditionally engaged in this profession and may be thrown open to others in the event of non-availability of candidates from these communities. Similarly, a part of the vacancies reserved for the Scheduled Castes in Group C & D posts may also be earmarked for candidates belonging to these communities to

uplift this section of the society which is still continuing at the lowest rung of the ladder.

6.24 On the recommendation of the erstwhile Commissioner for SC & ST the Government of India issued an order in 1976 regarding transfer of Sweepers, Farashes, Chowkidars, etc., to the posts of Peons to shift them from unclean jobs to clean jobs and ensure promotion avenues for them thereafter. According to these instructions 25% of the vacancies accruing in the grade of Peons or other similar induction level posts would be reserved for being filled by transfer of Sweepers, Farashes, Chowkidars, etc., as have put in a minimum of five years' service even though they may not be possessing minimum educational qualifications prescribed for direct recruitment to the post. They should, however, possess elementary literacy and give proof of ability to read either English or Hindi or the regional language. This provision of transfer to other Group D posts has helped a large number of Sweepers to get appointment to other Group D posts under the Government of India and has enhanced their further chances for promotion. This scheme has also been implemented in a number of PSUs by redesignating them as workers. A number of PSUs have also allowed promotion avenues by allowing them selection grades alongwith other workers. This is also helping these communities indirectly through creation of vacancies in the category of Sweepers, against which other candidates from the same section get employment. In the case of Nationalised and Public Sector Banks, where part time Sweepers are engaged for branches, there are no such openings for them. This needs to be reviewed by the Banking Division, Department of Economic Affairs, to ensure diversification of Sweepers to other Group D posts like Messengers in terms of the Government of India policy.

Promotion of Sweepers/Farashes/Chowkidars from subordinate category to clerical posts under the banks

6.25 The Punjab National Bank has a settlement with their employees' Trade Union in regard to the policy and procedures in respect of promotion from subordinate cadre to clerical cadre. According to one of the provisions of this settlement a Sweeper employed in PNB, who is a graduate, will have to undergo the test followed by interview, whereas an employee (other than Sweeper) in the subordinate cadre of the Bank, who is a graduate, will be considered for promotion without going through the written test but through a process of interview only. The All India Punjab National Bank Scheduled Caste and Scheduled Tribe Employees' Welfare Association brought to the notice of the Commission this discriminatory provision in the agreement. The matter was referred to the management of the PNB for remedial action. The initial reaction of the

Bank was "that in terms of our settlement with the Employees Federation, the graduate sweepers are also eligible for promotion to clerical cadre alongwith other category of employees, viz., watch and ward, who are graduates". It maintained that there was no discrimination against Sweepers in their promotion to clerical cadres. It added: "On the other hand the graduate sweepers irrespective of the fact whether they belong to general or SC/ST category are required to appear in test and interview both". According to them "the justification behind this provision was that a member of subordinate cadre, who is employed in the bank prior to passing of his matriculation examination will be able to attain the qualification of graduation after a span of 5-7 years of service in the bank. During this process and the time period 5-7 years on one side when he is enhancing his educational qualification, he is also in continuous touch with banking operations, which enable him to perform his duties properly in the clerical cadre when he is promoted after the interview in case of sweepers though they also take almost the same time for passing of graduation after joining the bank's service but their exposure to the real banking operations is almost negligible and accordingly to assess as to whether they will be able to perform the duties in the clerical cadre or not, it is necessary for the bank to put them through written test so that their capability to perform the duties can be properly assessed which is not possible during the process of interview".

6.26 The arguments put forth by the Bank are not convincing. It is not a question of general and SC/ST employees but a question concerning Sweepers who are considered the lowest among the low. Moreover, there are rare examples when we find some general candidates working as Sweepers. In regard to the banking operations also it is felt that an employee in the subordinate cadre only knows about the registers and passing on the cheques and other papers to different counters which a Sweeper in a small branch is also generally doing. It is also important to mention here that where appointments to clerical cadres are made through open competition, the candidates selected rarely know the banking operations. All such candidates have to be put on training which may also be done in the case of Sweepers selected for clerical posts. It is, therefore, recommended that all the employees of the Bank, whether in the subordinate cadre or in Sweeper category, should be treated at par for the purpose of their elevation to clerical posts. The other banks, if following the same procedure, also need to follow suit. The Banking Division of the Dept. of Economic Affairs should issue instructions to modify the agreement to put Sweepers and other subordinate cadre employees at par for their promotion avenues based on similar qualifications.

Recognition of service associations of SC & ST employees

6.27 Special safeguards in service matters have been provided by the Government for the benefit of SC & ST in terms of Articles 16(4) and 335 of the Constitution. The SC & ST have also got certain concessions and relaxations in service matters which are beneficial to them in the matter of promotions, but about which there is general, though misconceived, feeling that these special safeguards run counter to the interests of the employees in general. Thus, the grievances of SC & ST employees against "reserved quota" do not receive due attention of the authorities. Perhaps this was the reason that the Government of India allowed SC & ST employees to approach the erstwhile Commissioner for SC & ST to seek redress of their grievances against "reserved quota". In the case of Public Sector Undertakings, where the agreements with the majority unions of the employees under the Industrial Disputes Act govern the service conditions, grievances of the employees in general are ventilated through those recognised unions. It is, however, common knowledge that SC & ST employees in the PSUs who are advised to ventilate their grievances through the majority unions, do not generally get proper support from them insofar as their special interests are concerned. It is also common knowledge that a number of general unions, which are dominated by general category employees, have been opposing the introduction of reservation in appointments/promotions and various relaxations/concessions for SC & ST.

6.28 In the absence of proper support from the general service associations of the employees recognised under the ID Act in the PSUs and the Nationalised/Public Sector Banks, the SC & ST employees started organising their own associations to seek redress of their grievances in service matters. These Associations started demanding their recognition to enable them to take up the cases of SC & ST as the Governmental agencies refused to take note of their existence on the plea that under the Central Civil Services (Recognition of Service Association) Rules the service associations shall not be formed to represent the interests, or on the basis, of any caste, tribe or religious denomination or of any group within or section of such caste, tribe or religious denomination. Even the DoPT has been clarifying to various Departments that the service associations of SC & ST employees have no locus standi and the references from them need not be taken note of. The erstwhile Commissioner for SC & ST had recommended in his Reports more than once the recognition of some all India organisations of SC & ST employees so that legitimate grievances of SC & ST employees could be taken up through them. The Government of India have, however, not accepted this recommendation on the ground that it is not desirable that association of Government employees should be formed on the basis of caste, tribe or religion.

6.29 Non-recognition of service associations is an issue which is blocking dialogue or communication channel between the managements of the public enterprises and their employees belonging to SC & ST. Because of the rigid attitude of the managements SC & ST employees are forced to approach outside agencies including the Ministries and Members of Parliament. A large number of service associations of SC & ST employees also approach the National Commission for SC & ST. The managements of these enterprises are bound to reply to queries from the Ministry/MP and the National Commission which in turn inform the SC & ST Associations. The managements do take note of grievances of SC & ST employees but are generally unwilling to send replies directly to their SC & ST Employees' Associations. Unnecessary workload on other organisations can be avoided if the managements directly entertain references from the service associations of SC/ST employees. This will also help the National Commission to reduce their burden of dealing with a large number of representations from SC & ST on routine matters and the time and energy thus saved can be devoted to investigation into the working of various safeguards provided for SC & ST in terms of the responsibility cast upon it in the Constitution. For this purpose one of the representative service associations in an organisation may be identified and recognised for the limited purpose of taking up cases of SC/ST employees or general policy matters in terms of the existing instructions of the Government of India wherever violations are noticed. As in the case of Nationalised/Public Sector Banks, the identified service associations of SC & ST employees may also be invited by the PSUs periodically to discuss their grievances with the Chief Executive or Director (Personnel) to ensure that genuine problems of SC & ST employees may be considered on priority basis. The SC & ST employees will also have the satisfaction that the organisation is caring for their welfare.

Abolition of reserved posts under India Trade Promotion Organisation

6.30 Under the Special Recruitment Drive launched by the Trade Fair Authority of India (now India Trade Promotion Organisation) 32 posts of Security Guards were advertised alongwith other posts in April 1992. Out of these 32 posts, 18 were reserved for SC and 14 for ST. As per information made available to the Commission, unreserved posts in the grade were filled up earlier. While selection of SC & ST candidates for appointment as Security Guards was completed, no appointment out of those candidates could be made, as reported to the Commission by the Trade Fair Authority of India Employees' Union, due to abolition of 29 posts of Security Guards and two posts of

Security Havaldars to create a few higher level posts in the Security Department. The Employees' Union further alleged that the posts of Security Guards were abolished also to enable the Organisation to upgrade the level of the then Chief Security Officer to that of General Manager (Security) and a decision was taken by the management in this regard.

6.31 In view of the seriousness of the problem the Commission ordered an enquiry into the matter through the Deputy Director in Services Safeguards Wing of the Commission. The matter was discussed at various levels in the ITPO with particular reference to the abolition of 31 posts advertised as backlog of reservation. The enquiry report indicated that during 1990 the Organisation regularised 28 Security Guards none of whom belonged to SC and ST. In fact, the authorities did not take any step simultaneously to fill up the reserved posts either at the stage of their recruitment on daily rate basis or at that of their regularisation. The authorities, however, tried to justify their action by arguing that the abolition of the posts of Security Guards was not an isolated step and that there were a number of other posts including unreserved ones lying vacant at that point of time which were abolished under economy drive. The authorities also discounted the fears of the Employees' Union that lower posts were abolished to upgrade the Chief Security Officer to the level of GM. They further reported that there was a separate proposal to create a few higher level posts for better security arrangements. They added that while filling up those higher level posts as and when agreed to by the competent authority, due reservation would be allowed for SC & ST. The investigation team was also assured that a proposal would be considered to revive the abolished posts to clear the backlog of reservation in the Security Department. Subsequently it was made clear to the authorities in the ITPO that it would have serious repercussions if the post of Chief Security Officer was upgraded without filling up the posts of Security Guards reserved for SC & ST. If at all it was necessary to abolish certain posts, it should have been done in such a manner that the reserved vacancies already covered in the roster were not affected.

6.32 Meanwhile at the Board meeting of the ITPO on 15-9-93 a view was expressed that the security needs of the Pragati Maidan in terms of manpower and security devices should be thoroughly reviewed as there could not be any compromise in maintaining effective and alert security system. Accordingly the authorities reported that the manpower needs of the Security Unit were being assessed and revised in the context of actual security requirements. The authorities promised that if creation of additional posts was approved by the competent

authority, due representation would be given to SC & ST and whatever backlog was there would be covered as far as possible. No steps were, however, taken by the authorities to fill up the quota earlier earmarked for SC & ST. The Employees' Union also confirmed the position saying that the post of Chief Security Officer was being upgraded for the existing incumbent only who had already secured three or four promotions in a short span of ten years. This gave full credence to the allegation that the posts at the lower level were abolished to help the particular officer by his personal upgradation at the cost of the 31 posts reserved for SC & ST. This was further confirmed from the latest communication received from the ITPO that the Organisation had created one post of General Manager (Security) alongwith 62 other posts of security personnel which included 44 posts of Security Guards as per the approval of the Board of Directors. As far as the creation of 44 posts of Security Guards was concerned, the authorities clarified that those posts would not be filled up on regular basis, but personnel would be taken from security agencies as and when required.

6.33 Thus, the India Trade Promotion Organisation practically did nothing to fill up the 29 posts of Security Guards and 2 posts of Security Havaldars which were earlier advertised as reserved for SC & ST and then abolished those posts in the name of economy only to cover the expenditure involved in creation of the post of General Manager (Security) for a particular person. In view of this position it is recommended that the Ministry of Commerce may take immediate steps to ensure that the posts reserved for SC & ST, abolished before their filling up through advertisement issued earlier, must be restored to SC & ST without further loss of time. Action needs to be taken to fix responsibility for violating the Government policy. Action is also called for against the management for ignoring the well considered advice of the Commission.

Training programmes abroad -- Safeguards for SC & ST officers

6.34 According to the Government of India instructions, while drawing up training programmes for officers adequate margin should be provided to take in as many SC & ST officers as possible based on sponsorships from various authorities. The instructions provide that it would be useful to earmark 25% of the seats for SC & ST officers, wherever possible. The orders also provide that it would be useful if SC & ST officers were included in the various training programmes abroad. In accordance with the above instructions there was an opportunity to depute two faculty members from JIPMER (Jawaharlal Nehru Institute of Postgraduate Medical Education and Research), Pondicherry,

for training abroad in CT Scan work, equipment for which had been installed in the Institute through M/S Siemens. A Scheduled Caste member of the faculty was the Associate Professor and Head of the Department of Radio Diagnosis. The other faculty member, who was slightly better qualified, was Asst. Professor in the same Department and belonged to the unreserved category. A Member of Parliament brought this case to the notice of the Commission and complained that the Director of the Institute had violated the norm of seniority and ignored the claim of the Head of Department (SC) to be deputed first. The matter was taken up with the Director of JIPMER who stated that both the members of the faculty were to be deputed for the training abroad, but only one at a time. He further reported that at a meeting convened to discuss various official formalities about taking over the newly installed CT Scan machine from M/S Siemens under the charge of the Dept. of Radio Diagnosis, it was decided that since the Head of Dept. was officially required to execute all the formalities to ensure that the equipment was put on trial before a final certificate of installation was given to the firm, the junior faculty member, i.e., the Asst. Professor in the Dept., might be sent for training first. It was also decided that the senior faculty would go later after the return of the Asst. Professor.

6.35 As claimed by the Director, JIPMER, the Asst. Professor was more qualified academically and had exposure/experience in CT Scan work. In that case he was in a better position to handle the sophisticated machinery and should have been asked to look after the initial work. Since the Head of Dept. was senior to the Asst. Professor and also belonged to a Scheduled Caste he should have been given preference for training abroad, particularly in view of the Government of India instructions. There is sufficient ground to infer that the Director of the Institute favoured the junior officer ignoring the claim of the SC officer. This decision led to a controversy and later to a legal case and intervention of the local police which could have been avoided.

6.36 In another case a Scheduled Caste officer of the rank of Director in the Central Statistical Organisation of the Ministry of Planning & Programme Implementation, while seeking the intervention of the Commission, informed that being an elected office-bearer of the Committee on Statistics of the Economic & Social Commission for Asia and the Pacific (ESCAP) he was invited to attend a Working Group meeting of statistical experts at Bangkok scheduled for November 9-12, 1993. He had been elected the First Vice-Chairman of the Working Group. A request was reportedly made to the Dept. of Statistics as early as 22-9-1993 to spare his services and relevant agenda papers were also sent to be passed on to him. He alleged that the Dept. of Statistics kept him completely in dark about

the invitation for attending the meeting. Only on the evening of 9-11-93, the day the meeting was scheduled to start in Bangkok, he was informed about the same. He was even denied the agenda papers for the meeting.

6.37 The action of the authorities was in clear violation of the Govt. of India policy and amounted to discrimination against a Scheduled Caste officer. When the Commission referred the matter to the Dept. of Statistics it accepted the version of the officer but added that a copy of the agenda was endorsed to him. The Dept. of Statistics, however, took the view that the prerogative for nominating an officer to attend any meeting in India or abroad was that of the sponsoring authority and as such the option to nominate that officer or any other officer as might be considered appropriate keeping in view the exigencies of work, rested with them. On being informed of this, the ESCAP intimated that they would not be in a position to fund an expert other than the elected office-bearer, the case was reviewed under advice from the Ministry of Commerce, with reference to the status of the officer being an elected representative. As per information made available to the Commission a decision was taken with the approval of the Minister of State on 8-11-93 to send the said officer to Bangkok. The sanction order was issued on 9-11-93. Had this been done a few days earlier the officer would have been in a position to attend the meeting. Though the authorities claimed that there was no violation of any Government policy or any malafide intention on the part of the Dept. of Statistics, the matter was apparently inordinately delayed deliberately to prevent participation of the Scheduled Caste officer in the Bangkok meeting. The Commission recommended action against the officers responsible for this. The reply received from the authorities, however, indicated that no responsibility for delay could be fixed in this case, while maintaining that the prerogative for nominating an officer rested with the sponsoring authority. The Commission recommends that the matter may be reviewed by the Ministry concerned which may also ensure that such injustice is not done towards SC/ST officers in future.

Posting of Scheduled Tribe employees nearer their home towns

6.38 The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes had recommended that Scheduled Tribe employees should, as far as possible, be posted near their native places. After careful consideration of the recommendation the Dept. of Personnel & Training issued instructions on 20-6-1989 "that in case of holders of Group C and Group D posts, who have been recruited on regional basis and who belong to Scheduled

Tribes may be given posting, as far as possible subject to administrative constraints, near their native places within the region". With reference to these instructions the Andhra Bank Scheduled Tribe Employees Welfare Association brought to the notice of the Commission alleged large scale violation of these instructions in the matter of posting of Scheduled Tribe clerks in the Andhra Bank. The Association alleged that the Bank had posted majority of the ST employees in remote and far off places against insignificant posts in the branches. The matter was brought to the notice of the Chief Executive of the Bank clearly indicating that four unmarried tribal women clerks were posted in different branches in remote areas of Nizamabad and Khammam districts of Andhra Pradesh where no hostel/residential accommodation was available. A few cases of transfers of tribal women officers were also brought to the notice of the authority. Even after completion of usual three-year period in difficult areas their requests for transfer to stations of their choice were not considered even though 38 women officers were transferred in May 1993. The Bank replied that the four women clerks referred to above were recruited alongwith 461 candidates during 1989, of whom 191 belonged to ST and 183 to SC. It added that as per the practice in force in the Bank, all the new clerical recruits were given posting in rural/semi-urban areas as per the vacancy position, irrespective of the category to which they belonged. The Bank reported that it had to invariably post new recruits to rural/semi-urban places in difficult areas like Karimnagar, Nizamabad, Warangal, Srikakulam and Kurnool districts. While it may be true in terms of the Bank policy, the Bank is equally responsible to ensure implementation of the Govt. of India policy. The proportion of the ST clerks posted in difficult interior areas was also higher than that of other categories.

6.39 The Andhra Bank employees in clerical cadre are eligible for requesting transfer after completing two years' service in a place/region and applications for transfers are considered in the chronological order. The Bank reported that the requests of four tribal women clerks were registered with them and that it hoped to be able to give relief to majority of clerical staff working in coal belt/difficult areas after completion of the recruitment process by BSRB, Hyderabad, which was underway then. Accordingly the exercise of transfers of clerical staff as well as officers was completed and orders were issued on 28-11-94 and 7-12-94 respectively. The Vice-Chairperson of the Commission who visited Hyderabad on 1-11-94, discussed the question with the management of the Andhra Bank to impress upon them to redress the genuine grievance of the ST employees. The Executive Director of the Bank assured him that there was no discrimination against ST in the matters of postings, transfers and

promotions. He further reported that during 1994, 23 ST employees were transferred to their places of choice and assured that during the ensuing exercise of transfers some more request transfers of SC & ST would be considered.

Complaints relating to denial of benefit of 'reserved quota' to SC & ST employees in service matters

6.40 From 1989 onwards the Govt. of India launched a number of special recruitment/promotion drives to clear the backlog of reservation in services. Simultaneously the Govt. of India issued orders to ensure that the posts reserved for SC & ST were not dereserved and were actually filled by appointing SC/ST candidates. There have since been a number of other instructions allowing more facilities/concessions to SC & ST. These measures got good publicity, with the result that the work relating to implementation of reservation orders in Central/State Governments, Public Sector Undertakings and Banks got more attention and as a result the number of representations from SC/ST employees also increased. The setting up of the National Commission in March 1992 with powers of a Civil Court to inquire into specific cases of violation of safeguards and rights also got wide publicity in the press raising hopes of SC & ST in the matter of redress of their grievances. This too contributed to conspicuous increase in representations from SC & ST employees at various levels without any addition in the manpower to handle those cases expeditiously.

6.41 During the year under report the Services Safeguards Wing of the Commission received 5,453 representations from SC & ST candidates/employees relating to alleged violation of safeguards/rights in service matters, their harassment either by ignoring them for promotion or allowing their supersession by juniors, instituting disciplinary cases, delay in completing inquiry proceedings to deprive them of their normal promotion opportunities, denial of training opportunities abroad, termination of services on flimsy grounds, cases relating to dereservation, appointment on compassionate grounds, etc. Out of these cases 2,183 were addressed to authorities other than the National Commission for SC & ST and as such were filed. Again, there were some cases relating to purely administrative matters like fixation of pay, fixation of seniority, normal transfers, etc. Such cases were disposed of advising the petitioners to take up their grievances with the concerned authorities directly. The remaining cases, where there was some prima facie ground to show discrimination/harassment, were referred to the authorities concerned for factual information and their comments on the allegations made in those representations. Replies were received in a large number of cases, indicating that the representations were not

based on facts. In many cases the authorities replied that there was no discrimination against the SC/ST employees. There were also a number of cases where discrimination was apparent either on account of lack of appreciation of the policy or deliberate attempt to ignore the SC/ST employees. In such cases benefits could be restored to the SC/ST employees through the intervention of the Commission. Apart from all the representations relating to confirmation, promotion, grant of other concessions allowed to SC & ST employees by the Dept. of Personnel & Training, the Commission took up representations relating to adverse entries in CRs, appointment on compassionate grounds and transfers where there was prima facie ground of apparent injustice with those SC & ST employees against the well defined procedures/norms prescribed by the Government. All such representations were initially forwarded to the concerned administrative authorities for factual details and their comments for further examination in the Commission in terms of the Govt. of India policy on reservation matters.

6.42 In order to enable the Commission to perform its function of inquiring into specific complaints effectively and within manageable limits, it would like to appeal to members of SC & ST that while submitting any specific complaint to the Commission for redress of their grievances they should clearly state if and how there has been a violation of any of their safeguards or rights. It would not be helpful if the Commission is burdened with flimsy or irrelevant complaints. The Commission will be in a better position to inquire into their service grievances only if there has been a violation of any provision of the Acts/orders governing reservation in services and posts for SC & ST under the State Governments or in the case of the Government of India, of the orders contained in the Brochures on Reservation for SC & ST in services issued by the Dept. of Personnel & Training, Bureau of Public Enterprises (BPE), Dept. of Economic Affairs (Banking Division), Ministry of Railways, etc. The Commission would also not like to interfere in vigilance cases, disciplinary cases, criminal cases before a Court of Law, merits of adverse remarks in annual confidential reports and the like. In addition, the following guidelines have been laid down for submission of specific/individual complaints to ensure speedy disposal:

- (i) The complaint should be directly addressed to the Chairman, National Commission for SC & ST, or the heads of its field offices. No action will be taken on representations which are addressed to other authorities with only an endorsement to the Commission.
- (ii) The complainant should disclose his full identity and give his full address. No action will be taken on an unsigned complaint.

- (iii) Complaints should be legibly written and, where necessary, supported by authenticated documents.
- (iv) No action will be taken on matters which are sub judice.
- (v) Cases in which a court has already given its final verdict shall not be taken up afresh by the Commission.

6.43 It would be appreciated if the Government of India in the DoPT issue suitable instructions to all the Ministries, Departments and the State Governments that SC/ST employees working in any Government office, PSU, Banks, Universities, autonomous bodies, etc., are permitted to approach the National Commission for SC & ST directly for redress of their service grievances relating to violation of any statutory provision or orders concerning 'reserved quota' or concessions and facilities specifically extended to SC & ST. The Central Ministries, State Governments, etc., may also be informed that any authority or officer involved in serious violation of the Government orders and guidelines could be summoned before the Commission in terms of the powers of Civil Court vested in the Commission, for speedy disposal of the grievances.

Cases of discrimination in the matter of promotion against reserved posts

Punjab State Electricity Board, Patiala

6.44 The Supreme Court of India in the case of reservation for Socially and Educationally Backward Classes as recommended by the Mandal Commission recommended that "Reservation of appointments or posts under Article 16(4) is confined to initial appointment only and cannot extend to providing reservation in the matter of promotions. We direct that our decision on this question shall operate only prospectively and shall not affect promotion already made, whether on temporary, officiating or regular/permanent basis. It is further directed that wherever reservation are already provided in the matter of promotion.....such reservations shall continue in operation for a period of five years from this day". But the Punjab State Electricity Board reportedly stopped implementation of the reservation orders for SC. A Member of Parliament complained to the Commission that even after the Punjab Government clarified that the reserved vacancies would be filled in as per the existing practice, the cases of SC were ignored. The authorities in the PSEB with whom the matter was taken up reported that the name of the petitioner was approved for promotion as XEN alongwith others with effect from 16-8-1993. They

added that in view of the Supreme Court judgment reservation in promotion was to be reviewed by the Government an incorrect statement, and as such promotion could not be allowed before 3-6-1993 when the Punjab Government clarified that the existing benefit of reservation in promotion for SC/OBC would continue. The action of the PSEB was based on a misconceived notion and could be termed as manipulative against the interests of SC employees in that organisation. The Commission recommends that promotions of the SC officers should be reviewed to allow them the benefit retrospectively from due dates.

India Trade Promotion Organisation

6.45 A Scheduled Caste employee of the India Trade Promotion Organisation represented to the Commission that there were four posts of Deputy Security Officer out of which one was reserved for SC. Two posts were reportedly filled by promoting the two general seniormost Security Assistants who fulfilled all the requirements. The third post was also filled by promoting a general candidate by relaxing the basic qualifications in that case, but the reserved post was kept vacant and no relaxation was allowed in his case till 1988 when the reserved post was abolished. The authorities with whom the case was taken up reported that the DPC held in October 1985 did not recommend the case of the petitioner even on ad hoc basis alongwith the other three, considering his service record and CRs. The authorities, however, considered the case of promotion of the petitioner subsequently soon after the availability of a vacancy of DSO and promoted him against the post with effect from 2-6-1994. The authorities did not agree to review his case for promotion from the earlier date before 1988 when he was eligible against the available reserved post. It is felt that it was a clear case of discrimination against the SC official who could certainly be promoted before the post was abolished in 1988, if not in October 1985. If the authorities could relax even the educational qualification in the case of a general candidate above the petitioner, nothing prevented them from considering the case of the SC official against the reserved post.

Scheduled Caste/Scheduled Tribe Certificates

6.46 The terms Scheduled Castes and Scheduled Tribes are Constitutional and legal terms defined in Articles 341 and 342 respectively of the Constitution of India. Under these Articles the President has, with respect to every State and Union Territory and where it is a State after consultation with the Governor of the concerned State, issued orders notifying various castes and tribes as Scheduled Castes and Scheduled Tribes in relation to that

State or Union Territory from time to time. The SC/ST certificates issued by the competent authorities to SC/ST persons play a vital role in ensuring implementation of Constitutional safeguards in matters like entry into Government services under the Central/State Governments and Public Sector Undertakings, awards of scholarships, admissions to educational institutions including technical and medical colleges against reserved seats, allotment of land, contesting elections to the Lok Sabha and the State Vidhan Sabhas, Municipal Corporations and other local bodies, Gram Panchayats, etc., against reserved seats and for availing of a number of other facilities admissible to such persons.

6.47 As compared to 66 complaints regarding SC/ST certificates received during 1992-93, the Commission received 158 complaints during the year under report from individuals, SC/ST Associations, Public Sector Undertakings and Government Departments regarding validity of the SC/ST certificates of some of the employees/officers appointed against the reserved vacancies. The Commission scrutinised each case on its merits and, as a part of investigation, forwarded the relevant documents alongwith its preliminary comments to the District Magistrate concerned for on-the-spot verification and intimation to the Commission about the validity of the certificate. After getting a report from the District Magistrate the cases were re-examined and the concerned Department/Organisation was advised to initiate action against the employees who fraudulently obtained SC/ST certificates, as per orders issued by the Dept. of Personnel & Training (DoPT) from time to time.

6.48 The documentary evidence available with the Commission revealed that the competent authorities were not taking due care of the check points issued by the Ministry of Home Affairs. As a result, a number of non-SC/ST persons availed of the benefit meant for SC & ST. Details of some selected cases dealt with in the Commission may be seen as under:

6.49 Cases of persons not belonging to SC/ST by birth

(1) Two women had obtained Scheduled Tribe certificates as Valmiki from the Tahsildar, Rampachodavaram (Andhra Pradesh) and joined Bharat Heavy Plates and Vessels Ltd. as LDC/Typist. Their certificates were verified by the Collector, East Godavari, Kakinada, who found them to be Adi Andhra Christians (BC) and cancelled their Scheduled Tribe certificates. The Commission requested BHP&VL, Visakhapatnam, to terminate their services as per Government of India instructions. Information about the action taken by BHP&VL was awaited.

(2) An employee of the Oriental Insurance Company Ltd., Madras, had got appointment against a reserved vacancy on the basis of a Scheduled Tribe certificate as Konda Reddi issued by the Tahsildar, Ellavaram, East Godavari District (Andhra Pradesh). The certificate was cancelled by the ADM, Kakinada, who mentioned in his findings that the caste mentioned in the school leaving certificate should not be considered as the basis for an SC/ST certificate. The Commission advised the Oriental Insurance Company Ltd. to terminate his services. Their report was awaited.

(3) A person, resident of Katihar (Bihar) belonging to Sudi (Vaishya) caste obtained a Scheduled Caste certificate in the name of Turi, and was allotted an IBP agency of kerosene oil reserved for the Scheduled Castes. On scrutiny of the documents received through the IBP Company it was found that the SC certificate had been issued by the District Welfare Officer who was not a competent authority to issue SC/ST certificates for the purposes of the Central Government/Central PSUs. The IBPC was asked to furnish reasons for accepting the Scheduled Caste certificate not issued by a competent authority. The Ministry of Petroleum & Natural Gas was also requested to take action against the officer who violated the procedure laid down by the Government of India and accepted the Scheduled Caste certificate. Information about the action taken by the IBPC and the Ministry of Petroleum & Natural Gas was awaited.

(4) A person belonging to Kangra District (Himachal Pradesh) joined Coast Guard as a Navik on the basis of a false Scheduled Caste certificate as Kabirpanthi issued by the Executive Magistrate, Dehra. His caste status was got verified through the Deputy Commissioner, Kangra, who reported that the Navik belonged to Girth community and not to Kabirpanthi caste (SC). The Commission wrote to the Deputy Commissioner, Kangra, Dharamshala, to cancel the Scheduled Caste certificate under intimation to the Commission as well as the Director General, Coast Guard Hqs., New Delhi. Information about the action taken was awaited.

(5) Three employees had obtained Scheduled Caste certificates as Adi-Dravida from Tahsildar, Purasawalkam-Perambur, Madras (Tamil Nadu), on the basis of their forged school admission forms in the years 1984, 1985 and 1986 respectively and joined the Government Medical Stores Depot, Ministry of Health & Family Welfare, Govt. of India, Madras, against vacancies reserved for the Scheduled Castes. Their cases were referred to the District Collector, Madras, who after verification cancelled all these certificates on 26-3-1992 on the ground that these incumbents did not belong to Adi-Dravida

community and had obtained the certificates with fabricated and false records with malafide intention. The Commission requested the Asst. Director General, Govt. Medical Stores Depot, Madras, to terminate their services. A report was awaited.

(6) A Tax Assistant, Income-tax Office, Salem (Tamil Nadu), had neither claimed ST status nor submitted any ST certificate either at the time of entry into service or that of promotion. But his son and daughter got admission in Alagappa Govt. Arts College, Karaikudi, PMT District, and Medical College, Thanjavur, respectively on the basis of Scheduled Tribe certificates as Paniyan issued by the Tahsildar, Karaikudi, PMT District (renamed from PMR district). The District Collector, PMT District, was requested to verify the said certificates. A reply was awaited.

(7) An Assistant Teacher, Cantonment Board, Varanasi (Uttar Pradesh), had got appointment against a vacancy reserved for the Scheduled Castes. It was alleged that he was ordinarily a resident of Varanasi District and belonged to Bhambhuja caste (OBC) but he had produced a Scheduled Caste certificate as Gond. In fact, Gonds of Sonbhadra District and Bundelkhand Division of U.P. were notified as a Scheduled Caste. The Commission asked the Executive Officer, Cantonment Board, Varanasi, to furnish copies of the attestation form and the SC certificate submitted by the teacher. A reply was awaited.

(8) A person belonging to Aligarh District (Uttar Pradesh) was declared successful by the UPSC in the Combined Engineering Services Examination 1981, against the reserved quota on the basis of a Scheduled Caste certificate as Karwal. He got appointment in Indian Railways Stores Services. His caste status was got verified through the District Magistrate, Aligarh, who intimated that the officer belonged to Aheria caste which was not notified as a Scheduled Caste in U.P. The Commission advised the District Magistrate, Aligarh, to cancel the Scheduled Caste certificate issued in his favour. After protracted correspondence the District Magistrate informed the Commission that the officer had filed a writ petition in CAT, Calcutta Branch. The Commission requested the GM, Eastern Railway, Calcutta, to furnish a copy of the writ petition for perusal of the Commission. The Secretary, Railway Board, was also requested to direct the GM, ER, to make the documents available on priority basis. The matter was pending with the Indian Railways.

(9) A Junior Technical Assistant belonging to Agra District (Uttar Pradesh) was appointed on 30-6-1976 as a general candidate and also got first promotion to the next post in the Uttar Pradesh State Warehousing Corporation.

He was promoted as Warehousing Manager against a vacancy reserved for the Scheduled Castes. It was alleged that he belonged to Gaderia caste (OBC) but managed to obtain a Scheduled Caste certificate as Dhangar. The Commission requested the UPSWC to get the SC certificate verified from the District Magistrate, Agra. The UPSWC intimated that they had taken up the matter with the District Magistrate, Agra, with whom it was pending. Despite a reminder a final report was awaited from the Corporation.

(10) A resident of Moradabad District (Uttar Pradesh) was appointed in the office of the District Election Officer, Meerut, as a general category candidate but later on he produced a Scheduled Caste certificate issued by the Tahsildar, Meerut, in the name of 'Turiah' caste. It was alleged that he belonged to Dhiwar community which was not notified as a Scheduled Caste in U.P. The ADM, Meerut, subsequently intimated that the Tahsildar, Meerut, was asked to investigate. The investigation report was yet to be recieved.

(11) A lady joined the Hindustan Fertilizer Corporation of India Ltd., Durgapur Unit (West Bengal), in 1973 as an LDC against a vacancy reserved for the Scheduled Castes on the basis of a Scheduled Caste certificate as Namasudra issued by the SDO, Durgapur, on 12-1-1973. Verification of her caste status was referred to the SDO, Durgapur, by the CBI, Calcutta. On 31-10-1988 the SDO, Durgapur, directed the Officer-in-Charge, Kanksa P.S., to register a criminal case against her u/s 193, 199 and 471 IPC as she belonged to Saha community and not to Namasudra (SC). On the basis of the findings of the CBI the HFC chargesheeted her in 1990 and awarded punishment on 1-6-1992 as "reduction to two lower stages in the time scale for one year" which is contrary to the Government of India instructions that "if in any particular case the verification reveals that the candidate's claim is false, his services should be terminated". The Commission advised HFC, Durgapur, to initiate action as per Government instructions. A reply was awaited.

6.50 Cases of SC/ST certificates in the names of communities not included in the lists of SC/ST of the concerned State

(1) A Medical Officer at the PHC, Ballumath, Palamu District (Bihar), had allegedly got admission in the MBBS course by producing a Scheduled Caste certificate in the name of 'Choapal' community which was actually not included in the list of the Scheduled Castes of Bihar. The Director, Health Services, was requested to furnish the Scheduled Caste certificate and the attestation form of the said officer but the same were not received despite repeated reminders.

(2) A person of Vaishali District (Bihar) appeared at an interview for direct recruitment in the grade of Senior Field Assistant (Stores) in the Cabinet Secretariat, Govt. of India, against vacancies reserved for the Scheduled Castes. He produced a Scheduled Caste certificate bearing No.125 dated 19-5-1992 issued by the SDM, Hazipur, to the effect that that person belonged to Gwala caste which was a Scheduled Caste in the State of Bihar. The Commission advised the Cabinet Secretariat to reject the invalid Scheduled Caste certificate as Gwala caste was not notified as a Scheduled Caste in Bihar and also requested the Chief Secretary, Government of Bihar, to initiate action against the officer who had issued the certificate and also against the person who deliberately obtained a false Scheduled Caste certificate. Replies were awaited.

(3) An IAS officer, before appearing in the examination, had obtained a Scheduled Caste certificate from the Social Welfare Officer, Ahmedabad (Gujarat), on 8-6-1965 in the name of Vankar community whereas he actually belonged to Vansa-Vankar community which is not notified as a Scheduled Caste. He appeared in the competitive examination conducted by the Gujarat Public Service Commission in 1966 and appended the above certificate to the application form. The State Government chargesheeted the officer who also subsequently accepted that his certificate was a false one. The State Government imposed the penalty of 'censure' on him and cancelled the certificate. The officer filed a review application against the penalty of 'censure' and the State Government revised the penalty to that of 'warning'. The Commission did not accept the logic of penalty imposed by the State Government and requested the Secretary, Ministry of Personnel, Public Grievances & Pensions, Government of India, to initiate action against the officer for termination of his services. Information about the final action taken by the Ministry was awaited.

(4) A person was selected by the Indian Airlines and an offer of appointment to him under the Scheduled Tribe quota was under their consideration. The person had claimed himself as a Scheduled Tribe person belonging to Banjara community of Haryana and ordinarily residing in Gurgaon District of Haryana. Later on he produced a Scheduled Tribe certificate from Ranchi showing his community as Banjara of Bihar. The Deputy Commissioners of Gurgaon and Ranchi were requested to verify the claim of the person. The Deputy Commissioner, Ranchi, intimated that neither the person belonged to his district nor had any such certificate been issued from his office. However, the SDO (Civil), Gurgaon, intimated that his office had issued a Scheduled Caste certificate to the

person showing his caste as Banjara (SC). The Commission wrote to the Deputy Commissioner, Gurgaon, that since Banjara was not included in the list of the Scheduled Castes of Haryana the Scheduled Caste certificate issued to the person concerned by the SDO(C), Gurgaon, should be cancelled forthwith under intimation to the Commission. The Indian Airlines were advised not to issue an offer of appointment to the person. A reply from the Deputy Commissioner, Gurgaon, was awaited.

(5) An employee of Bharat Aluminium Company Ltd. joined the undertaking as a general candidate but at the time of promotion he submitted a Scheduled Caste certificate issued by Tahsildar, Korba, District Bilaspur, Madhya Pradesh, indicating that the employee was ordinarily a resident of Balco Township and belonged to "Namshudra" caste which is not notified as Scheduled Caste in M.P. but is in the Central Sch.Caste List. The Commission wrote to the Govt. of Madhya Pradesh that the Tahsildar, Korba had issued the certificate carelessly and incorrectly and requested them to direct the District Collector to cancel the certificate under intimation to the Commission and also initiate disciplinary action against the Tahsildar for his irresponsible act. A report was awaited from the State Government.

(6) A student was selected by the Regional Engineering College, Silchar Assam, against the reserved quota on the basis of a Scheduled Caste certificate issued by the SDO, East District Collector, Gangtok (Sikkim), in the name of Darjee community. The Commission wrote to the Chief Secretary, Govt. of Sikkim, that since Darjee community was not included in the list of the Scheduled Castes of Sikkim, necessary disciplinary and legal action might be taken against the officer who had issued the said Scheduled Caste certificate, in terms of the MHA circular letter No.BC-12025/1/82-SC&BCD.IV dated 29-6-1982. Despite repeated reminders the final outcome was awaited.

(7) There were at least 16 employees in the Electronic Corporation of India Ltd. who were appointed against Scheduled Tribe vacancies without Scheduled Tribe certificates. One employee had produced a certificate issued by the SDO Sadar, West Tripura (Tripura) that the employee belonged to 'Scheduled Tribe' of Tripura. There were 13 doubtful cases too in which the Commission advised the ECIL to get the Scheduled Tribe certificates verified from the District Magistrates. The Commission treated these lapses on the part of the ECIL as a major violation of the Presidential Directives and advised it to initiate suitable disciplinary action against the officers responsible for the same. Information about the action taken by the ECIL was awaited.

Scheduled Caste/Scheduled Tribe claims through migration

6.51 The Scheduled Castes and Scheduled Tribes have been specified as such in relation to a State or Union Territory, as the case may be. Where an SC/ST person migrated from one State to another, he could claim to belong to the particular SC/ST only in relation to the State to which he originally belonged and not in respect of the State to which he had migrated. In case of persons who migrated from one State to another before the date of issue of the Presidential Order specifying SC & ST in respect of the State to which the migration took place, they could claim to be residents of the latter State and get the certificates issued. A person who was temporarily away from his permanent place of residence at the time of the notification of the Presidential Order made applicable in his case, for example, to earn a living or for the purpose of education, could also be regarded as a Scheduled Caste or a Scheduled Tribe person, as the case may be, if his caste/tribe has been specified in that Order in relation to his State/Union Territory. But he cannot be treated as such in relation to the place of his temporary residence, notwithstanding the fact that his caste/tribe has been scheduled in respect of that area in any Presidential Order. In case of a person born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring SC/ST status would be the place of permanent residence of his parents at the time of the notification of the Presidential Order under which they claim to be belonging to an SC/ST.

6.52 In spite of the well laid down guidelines in this regard there have been cases where persons from a particular State where their community was not scheduled, obtained certificates of belonging to that community from the State to which they had migrated after the notification of the Presidential Order in respect of the latter State where that community was specified as an SC or ST. For instance, Mallah is not a Scheduled Caste in Uttar Pradesh but it is a Scheduled Caste in Delhi. A number of cases have been reported to the Commission where Mallahs belonging to U.P. have obtained SC certificates from the competent authorities though they migrated to Delhi after 20-9-1951 when the list of the Scheduled Castes of Delhi was promulgated by the President. All such cases of false certificates need to be dealt with strictly to ensure that the benefits of reservation are not cornered by unscrupulous persons. A few cases of this nature which came to the notice of the Commission are mentioned below:

(1) One Senior Manager in the Indian Overseas Bank had submitted at the time of his appointment a Scheduled Caste certificate issued by the SDO, Gohana (Haryana), showing

his caste as Dhanak and him as a permanent resident of Gohana , District Sonapat. The certificate did not bear any number or date of issue. When the Bank asked him to submit the original certificate, he submitted another certificate issued by the Tahsildar, Khetri (Rajasthan) on 25-11-1992 claiming his caste as Dhanak and himself as a permanent resident of Khetri town in District Jhunjhunu. After scrutinising the documents the Commission requested the District Magistrate, Jhunjhunu, to verify the Scheduled Caste claim of the Senior Manager and intimate the result to the Commission. The report of the District Magistrate was awaited.

(2) The All India Central Warehousing Corporation Employees' Union brought to the notice of the Commission that one of the Regional Managers of the CWC had on production of a false Scheduled Tribe certificate from District Satna (Madhya Pradesh) in 1977 claimed to be belonging to Manjhi community. Later on the same officer obtained two other caste certificates from Etawah (Uttar Pradesh) claiming to be belonging to Mallah caste of Uttar Pradesh. The matter was taken up with the Managing Director, CWC, New Delhi, the District Collector, Satna, and the SP, CBI, Lucknow. The Collector, Satna, intimated initially on 31-5-1993 that no such certificate was issued from his office and it appeared to be a fake one. During further investigations he sent another letter on 26-7-1994 stating that after thorough investigations it was established that the officer jointly acquired land in village Madhavpur (No.607 Khasra 0.33 A) and based on the revenue records the certificate issued to him could not be treated as irregular. The report sent by the Collector was not considered in order as the individual was not a permanent resident of Satna District at the time of notification of the Presidential Order specifying SC & ST in Vindhya Pradesh. It was found that his mother had migrated to U.P. well before 1950 and before his birth. He studied throughout in U.P. and had no connection with Madhya Pradesh. The Collector, Satna, was advised to cancel the ST certificate. Information about the action taken was awaited.

(3) A girl residing at Munirka, New Delhi, got admission in the first year of MBBS course in the University College of Medical Science, Delhi, on the basis of a Scheduled Tribe certificate in the name of Sonr tribe of Madhya Pradesh issued by the SDM, Delhi, who had issued it on the basis of the Scheduled Tribe certificate issued to her father by the Tahsildar, Hoshangabad (Madhya Pradesh). The documents furnished by the UCMS and the Delhi Development Authority, where her father was working, showed that her father was a permanent resident of Lajpat Nagar, New Delhi, and was born in District Sialkot in Pakistan. The relevant documents were sent to the

Collector, Hoshangabad, with the request to verify the validity of the Scheduled Tribe certificate reported to have been issued in favour of the father. The Collector, Hoshangabad, did not furnish his enquiry report despite repeated reminders. It was interesting to note that the girl's father subsequently wrote to the UCMS that the admission of his daughter might be treated as cancelled.

(4) A report appeared in the Hindi daily Jansatta (New Delhi) of 27-5-1993 that four persons had joined the posts of Junior Engineer in the Delhi Development Authority on the basis of Scheduled Caste certificates in the name of Mallah issued by the Deputy Commissioner, Delhi. All the four employees reportedly belonged to Dheemar caste included in the list of Backward Classes of Uttar Pradesh. The report further mentioned that having similar occupational characteristics persons belonging to Dheemar caste claimed to be Mallah by misrepresenting facts and fraudulently entered into service against posts reserved for the Scheduled Castes. In the meantime the DDA Scheduled Caste/Scheduled Tribe Employees' Welfare Association reported the matter to the Commission on 29-6-1993, supporting the relevant information from revenue records. The matter was investigated through the DDA. Further information was sought from the Delhi Municipal Corporation and the Directorate of Census Operations, Delhi, whether the parents of the persons mentioned in the press report were enrolled in the Electoral Rolls for Delhi. The information received indicated that their names did not appear in the Electoral Rolls for 1951. As per entries made by the employees their parents were residents of Jamuna Bazar Jhuggi in Delhi. The Dy. Commissioner, Delhi, who was asked to look into the case, asked the individuals vide letters dated 20-9-1994 to explain within 10 days the charge of giving false information of belonging to Mallah community of Delhi instead of Dheemar caste of Uttar Pradesh. On failure to do so they were told that their Scheduled Caste certificates would be cancelled without further notice. The father of two of the four employees was reported to be a retired Head Clerk of the State Tubewell Department at Aligarh. It is interesting to note that all the four employees were relatives. Cancellation of the SC certificates was awaited from the Deputy Commissioner, Delhi, who had been advised to institute criminal proceedings against the delinquent officials.

(5) The Director of Horticulture, Delhi Municipal Corporation, had obtained before joining the DMC a certificate from the Deputy Commissioner, Delhi, in the name of Mallah caste recognised as a Scheduled Caste in Delhi, though he was not a resident of Delhi on 20-9-1951. On receipt of a complaint the Commission deputed a team of officers to meet the Municipal Commissioner and other

officers in the Personnel Department of the DMC. The matter was also referred to the educational institutions in Uttar Pradesh where the officer was educated. The enquiries revealed that the delinquent officer was a permanent resident of Etah town in Uttar Pradesh and belonged to Kahar/Dheewar caste included in the list of Backward Classes of U.P. He had passed the High School Examination in 1957 and the Intermediate Examination in 1959 from the U.P. Board. In the school records his caste was mentioned as Dhimar. The Superintendent of Police, Etah, also confirmed that the said officer belonged to Dhimar caste and was a resident of Etah town. It was, therefore, clear that the officer had obtained the SC certificate from the Deputy Commissioner, Delhi, by furnishing false information about his permanent residence as Delhi. The Deputy Commissioner, Delhi, was requested on 30-8-1993 to cancel the SC certificate No.2033/Caste/Misc./66(M) dated 28-12-1966 issued in favour of the said officer. Information about the action taken in this regard was awaited.

(6) One teacher was appointed in the Damodar Valley Corporation (Headquarters at Calcutta) against a vacancy reserved for the Scheduled Castes on the basis of the caste certificate issued by the Dy. Collector, Howrah (West Bengal), showing his community as Noniya. The relevant service documents of the employee were called for by the Commission. It was found that his father was permanent resident of District Gaya (Bihar) and he was residing at Howrah for employment purpose. Since the caste Noniya was notified as a Scheduled Caste in West Bengal, the teacher had obtained a Scheduled Caste certificate from a competent authority in West Bengal. The Commission advised the DVC, Calcutta, that the documentary evidence made available to the Commission was sufficient to conclude that the teacher could not be treated as a SC and hence his caste certificate might be sent to District Collector, Howrah for cancellation, followed by termination of his services as per Govt. of India instructions.

Claims through inter-caste marriages

6.53 Normally the caste/tribe status of a person is determined on the basis of that of his father. If a Scheduled Caste man marries a non-SC woman, the woman does not acquire the SC status but their children will be treated as SC. If a Scheduled Caste woman marries a non-SC man, she continues to be treated as SC (since she was SC by birth) but neither her husband nor their children will be treated as SC. In the case of matriarchal communities like the Khasi of Meghalaya, amongst whom lineage is traced from the mother, the children born to a

Khasi mother and a non-ST father will be treated as ST but their father will not be treated as ST. A few instances of the cases of inter-caste marriages reported to the Commission are mentioned below:

(1) The Andhra Pradesh Census Office SC/ST Employees' Welfare Association, Hyderabad, reported to the Commission that a UDC in the office of the Director of Census Operations, Hyderabad, had produced a false ST certificate and secured the job against a post reserved for the Scheduled Tribes. The Commissioner for Tribal Welfare, Govt. of A.P., vide his letter dated 7-11-89 advised the Census Department to take action against the employee as she was not ST by birth. Meanwhile the employee approached the Hyderabad bench of the Central Administrative Tribunal (O.A.No.823 of 90) stating that she was selected against the ST quota on the basis of an ST certificate dated 4-11-1977 issued in her favour by the Tahsildar, Hyderabad. She claimed that her husband belonged to Konda Kapu(ST) and hence she was also entitled to enjoy the same status. The Govt. pleader in the High Court was addressed to get the case posted in motion list for early disposal. The Director of Census Operations, however, intimated that further disciplinary case against the employee would be taken after the disposal of the petition by the Hon'ble CAT.

(2) It was brought to the notice of the Commission that four employees of the ONGC had entered into service on the basis of SC/ST certificates obtained by misrepresenting facts. Enquiries into those cases revealed that two non-SC/ST female employees had obtained their certificates after marrying SC/ST persons, from Tahsildars of Chakrata and Dehradun (Uttar Pradesh) on the basis of the caste/tribe status of their husbands. One of the female employees, later in 1991, also submitted a certificate from Ambala District (Haryana) declaring herself as a member of Dhangiri caste. In Haryana Dhangri and not Dhangiri is notified as a Scheduled Caste. The certificate earlier issued by the Tahsildar, Dehradun, was in the name of Dhangar. Doubt arose about the genuineness of these certificates as Dhangar and Dhangiri are not the same and Dhangar is not recognised as a Scheduled Caste in Haryana. Both the cases were referred to the District Magistrate, Dehradun, whose final reply was awaited.

6.54 The authorities responsible for issuing SC/ST certificates must ensure that female applicants establish that they are SC/ST by birth. They must reject an application where the female candidate indicates the caste/tribe status of her husband instead of that of her father, as required. It is recommended that the SC/ST certificate proforma should be amended so as to include a note that the caste/tribe status of a married woman is to be verified on the basis of that of her father and not her husband.

Claims through conversion and reconversion

6.55 (1) Andhra Pradesh: An employee was appointed on 5-2-1977 in BHPV Ltd., Visakhapatnam, against a vacancy reserved for the Scheduled Castes on the basis of the caste certificate showing him as a member of Mala community. On the receipt of a complaint the caste certificate was referred to the Collector, East Godavari District, Kakinada, for verification. The Collector informed that the father of the employee had converted himself to Christianity in 1950 while his mother at the time of her marriage with his father. The concerned employee was born to them in 1955. It was thus clear that he was Christian by birth and could not be treated as a Scheduled Caste person. The BHPV Ltd. was requested to terminate his services. Information about the final action taken by the undertaking was awaited.

(2) Andhra Pradesh: An LDC in the office of the Regional Provident Fund Commissioner, Andhra Pradesh, Hyderabad, was appointed on 28-5-1979 against a vacancy reserved for the Scheduled Castes. He produced a Scheduled Caste certificate dated 24-11-1978 issued by the Tahsildar, Tadapalligudem, showing him as a Madiga. He also got promotion to the post of UDC against a reserved vacancy on 5-6-1981. On 5-6-1989 he intimated his office that he had embraced Christianity on 28-5-1989. Due to oversight he was allowed to appear at the Head Clerk's Examination held from December 26 to 28, 1990, as a Scheduled Caste candidate. He was declared to have passed the said examination under the Scheduled Caste quota in February 1991 while in fact he no longer belonged to a Scheduled Caste. The RPFC withheld his promotion pending verification of his caste status. On 27-1-1992 he submitted a fresh Scheduled Caste certificate dated 27-1-1992 from the Collector, Visakhapatnam, to the effect that he belonged to a Scheduled Caste and Sikh religion. The Collector, Visakhapatnam, was requested to verify the caste status of the employee. In the meanwhile the employee filed an O.A. on 10-6-1992 in the Hyderabad Bench of the CAT. The Hon'ble Court dismissed his petition on 22-3-1993 with the direction that the caste verification was pending before the District Collector and it was open to him to satisfy the competent authority that he belonged to a Scheduled Caste despite change of his religion from Hinduism to another religion. The Commission requested the RPFC to pursue the matter with the District Collector.

(3) Tamil Nadu: An officer of Bharat Petroleum Corporation Ltd., Madras, with a Hindu name, who had originally a Christian name and allegedly belonged to the Christian community, was enjoying facilities meant for the Scheduled Castes as an Adi-Dravida. On the receipt of a

complaint attested copies of his Scheduled Caste certificate and the attestation form submitted by him at the time of his entry into service were called for from the BPCL. These documents were sent by the Commission to the District Collector, Tuticorin, for on-the-spot verification. A reminder was issued but the report from the District Collector was still awaited.

(4) Tamil Nadu: A woman employee of the Oriental Insurance Company Ltd. had secured her job against the reserved quota on the basis of a Scheduled Caste certificate (Adi-Dravida) issued by the Tahsildar, Erode. After verification the District Collector, Periyar District, cancelled the certificate on the ground that she had converted herself to Hinduism only for the purpose of her marriage and she continued to live as a Christian after marriage and was no longer a Hindu. The Commission advised the Oriental Insurance Company Ltd. to terminate her services. Information about the action taken by them was awaited.

(5) Tamil Nadu: A non-SC woman married to a Scheduled Caste person had obtained a Scheduled Caste certificate (Adi-Dravida) from Tahsildar, Fort-Tondiarpet Taluk, Madras, and got employment in Oriental Insurance Company Ltd., Madras, against a reserved vacancy. Her caste status was verified by the District Collector who cancelled her Scheduled Caste certificate on the ground that she got herself converted to Hinduism only for the purpose of marriage to a Hindu but continued to live as a Christian after marriage. The Commission advised the Oriental Insurance Company Ltd. to terminate her services. Information about the action taken by them was awaited.

Status of offsprings of inter-caste marriages

6.56 Uttar Pradesh: An Air Hostess was appointed by Indian Airlines against a reserved vacancy on the basis of a Scheduled Caste certificate (Pasi) issued by the Addl. District Magistrate, Etah. The ADM stated that he had issued the certificate because the woman had claimed to be a Pasi in an application filed by her. It was alleged that her mother was a Scheduled Caste person but her father was a Brahman. The Commission sent a number of communications to the District Magistrate, Etah, and the Govt. of Uttar Pradesh with documentary evidences against the validity of the said Scheduled Caste certificate. The D.M. cancelled the SC certificate on the basis of the documentary evidence made available by the Commission and after local enquiry. Indian Airlines were advised to terminate her services and the Special Enquiry Cell, Govt. of Uttar Pradesh, to register a criminal case against her. The outcome was awaited.

Fake certificates

6.57 The Commission came across cases where non-SC/ST persons had submitted fake SC/ST certificates and got employment against vacancies reserved for SC/ST. Five such cases are mentioned below:

(1) Andhra Pradesh: An officer of the Employees Provident Fund Organisation, Andhra Pradesh Region, was appointed on the basis of a Scheduled Caste certificate issued by the Tahsildar, Paderu, indicating his caste as Yerukula. (Yerukula is a Scheduled Tribe, not a Scheduled Caste in Andhra Pradesh.) The certificate was referred to the Collector, Visakhapatnam, who informed the Commission that it was a fake document and the signature of the Tahsildar and the rubber stamp and the seal affixed were not genuine. The Commission advised the headquarters of the Organisation at New Delhi to terminate the services of that employee. The final outcome was awaited.

(2) Andhra Pradesh: A social worker of Hyderabad reported to the Commission that a woman employee of FCI, Hyderabad, belonging to Naidu caste had joined the organisation against a reserved vacancy on the basis of a fake SC certificate (Mala). Her husband, also a Naidu, was working in Rajendra Nagar Mandal office and was allegedly trying to influence the inquiry in her favour. The social worker further intimated that the service records of her father, a retired RRC employee of Ranigunj Depot, Secunderabad, would reveal that she belonged to a Backward Class. The Commission called for the relevant documents and found that the SC certificate (Mala) had been issued to her by the Tahsildar, Hyderabad Urban Taluka, on the strength of certificates issued to her by two respectable persons, i.e., an Asst. Professor of a College and a Reader of the University College of Arts and Commerce, Hyderabad, who were not authorised to issue SC/ST certificates. The Collector, Hyderabad, was requested to verify the social status of the employee and a reply was awaited.

(3) Bihar: An Operation Theatre Assistant at Neuro-Sciences Centre, AIIMS, New Delhi, was appointed on the basis of a Scheduled Tribe certificate (Kharia) issued by the District Magistrate, Siwan. The certificate was referred to the District Magistrate, Siwan, who informed the Commission that neither the said certificate was issued by his office nor was Kharia tribe found in that district. The Commission advised the AIIMS authorities to terminate the services of the employee and this was done.

(4) Karnataka: A Diploma Trainee at Balco Captive Power Plant, NTPC, Korba (Madhya Pradesh) had submitted a Scheduled Tribe certificate (Gond) issued by the Tahsildar, Bidar. The certificate was referred to the

Tahsildar, Bidar, who informed the Commission that no such certificate had been issued by his office to the employee. The Deputy Commissioner, Bidar, also corroborated the findings of the Tahsildar. The General Manager, Balco Captive Power Plant, NTPC, Korba, was advised to terminate the services of that employee. The final outcome was awaited.

(5) Orissa: The Organising Secretary, Orissa State SC/ST Students Action Council, Bhubaneswar, represented to the Commission that one Dy. Chief Inspector of Factories and Boilers under the Labour and Employment Department, Govt. of Orissa, had been debarred by the Collector and District Magistrate, Bolangir, in 1991 from availing of benefits of reservation and other concessions made available to SC/ST employees, but the officer was still continuing in Government job. The matter was taken up with the Labour and Employment Dept., Orissa, who intimated that on receipt of the extract of the order passed by the Collector, Bolangir, in Rev. Misc. Case No.8 of 1992, the Deputy Chief Inspector of Factories & Boilers was directed to submit his explanation in the departmental proceedings drawn up against him. The State Govt. further informed that the employee had asked for more time to submit his explanation on the plea that he had filed an appeal in the Court of the RDC (Revenue Divisional Commissioner), Sambalpur, against the order of the Collector, Bolangir, cancelling his caste certificate. While the officer wanted time till the disposal of his appeal to the RDC, the State Govt. asked him to submit his explanation within 21 days. The Commission suggested to the State Govt. to direct the prosecution wing to convince the court of the RDC to vacate the stay order so that the concerned employee who did not belong to the Scheduled Castes might not be able to avail of the reservation and other benefits meant for SC & ST. A final reply was awaited.

Phonetic similarities

6.58 There are two communities in Karnataka, both spelt as 'Maleru' in English but pronounced and spelt differently in Devnagari and Kannada, written as Maleru (ಮಲೇರು) and Maaleru (ಮಾಲೇರು). The Gazetteer of Karnataka lists Maleru (ಮಲೇರು) as a tribe mostly found in certain forest regions of the southern part of Karnataka, which has been classified as a Scheduled Tribe in Karnataka in terms of the ST Order, 1950, whereas the other community Maaleru (ಮಾಲೇರು) is said to be an outcaste of Brahman male ancestry from women attached to temples — an educationally forward community. The distinction between the two communities having different backgrounds has, therefore, been rightly made by the State Government, interpreted by the then Commissioner for SC and ST in his 28th Report and accepted by the Postal

authorities. The Census of Mysore, 1911, recorded the chief occupation of Malerus as cultivation and labour, whereas the other caste Maaleru's claim was based on the concept of temple servants as their traditional and hereditary occupation. In fact, the children from the male Brahman ancestry through women who eat sacrificial rice in temples and become public women, having no tribal characteristics, do not belong to any tribal community recognised as a Scheduled Tribe in Karnataka.

6.59 The Senior Superintendent of Post Offices, Bangalore South Division, had denied the benefit of reservation available to the Scheduled Tribes to some employees claiming to be Malerus in Karnataka, on the basis of a Court ruling, to extend benefits of reservation to only Malerus from Shimoga and Chikmagalur and educational facilities to other Maalerus, stating that Maleru (ಮಲರು) was the real ST but not the other community with the same name but slightly different in pronunciation, i.e., Maaleru (ಮಾಲರು), which does not have any tribal characteristics. The position was clarified by the erstwhile office of the Commissioner for SC and ST on the basis of observations made in the 28th Report of the Commissioner and the Court ruling.

6.60 Earlier in Writ Petition No.814 to 818 of 1975, the single judge order of the Karnataka High Court had also stated that the correct and appropriate meaning of 'Maleru' in Kannada language would be those that are attached to the hills or living in hills and the correct meaning of the other term 'Maaleru' would be spoiled or polluted or degenerated. The Court in its judgment had analysed the various opinions and materials available on the question. On the basis of the analysis and with due regard to the meaning of the terms in Kannada the Court felt that it was abundantly clear that 'Maaleru'

was only an outcaste of Brahmans and not the hill tribe 'Maleru' for whom only the reservations were made. The Karnataka High Court by its Order dated 24-7-1981 also quashed the promotion orders of the petitioners who had obtained Scheduled Tribe certificate as 'Maleru' but did not belong to the real ST 'Maleru'. Since this was a single judge order, the Maalerus filed a writ appeal before the Division Bench in 1981. On establishment of Central Administrative Tribunals, the High Court transferred the case to the CAT, Bangalore Branch, which quashed the orders of the P & T and directed the respondents not to prosecute the applicants relying on an order of the Supreme Court in Writ Petition No.11984/85 in force. Further, the Supreme Court in its judgment dated 6-9-89 in the above referred Writ Petition directed the State Government to take action as contemplated in their order dated 23-1-86 within four months. The Government of Karnataka accordingly formed a Committee under the

chairmanship of the Minister for Social Welfare and reconstituted the same on 7-3-89 and again on 5-1-90 but the Committee did not submit any report. The Writ Appeals filed in the Karnataka High Court by the respondents in 1981 against the single judge judgment were also disposed of on 7-11-89 by the High Court on the basis of the Supreme Court order of 6-9-89 referred to above.

6.61 The Karnataka Rajyada Maleru Vargada Sangha, an association of Maalerus, filed a petition (No.34493/92) in the Karnataka High Court against the Dept. of Posts for ignoring their promotions against the posts reserved for the Scheduled Tribes in 1992 on the basis of a letter dated 22-1-1992 from the erstwhile office of the Commissioner for SC and ST clarifying the position already mentioned above and letter dated 26-6-1992 of the Dept. of Posts issued on the basis of the Commissioner's letter dated 22-1-1992. In this case the Commissioner for SC and ST, and now the National Commission, was also made one of the respondents. Thus, the question of Maleru and Maaleru is wide open before the High Court of Karnataka without any bearing on the judgment dated 24-7-1981 from a single judge, in the absence of the report of the Committee set up under the chairmanship of the Minister for Social Welfare, in terms of the Supreme Court order of 6-9-1989. Since the Supreme Court order dated 6-9-1989 allowed the persons of Maleru caste to continue to enjoy the benefits, which should not have gone to them to start with, the main issue could not be sorted out without the report of the Committee set up by the State Government several years ago. It was unfair to persons belonging to the hill tribe that some impostors appropriated to themselves what rightly was not theirs, on account of delay and inaction on the part of the Karnataka Government. The Commission recommends that the Committee set up under the chairmanship of the Minister for Social Welfare should earnestly complete its task and submit a report at the earliest, as promised by the Government of Karnataka in their communication of 2-9-1994.

Removal of area restrictions in respect of certain castes/tribes in various States/UTs

6.62 Under the Scheduled Castes and Scheduled Tribes Orders 1950 and 1951 some castes/tribes were scheduled only in relation to certain areas of the particular State and not in respect of the entire State. Members of such of the Scheduled Castes and Scheduled Tribes were able to secure caste/tribe certificates from their areas to avail of benefits of reservation and other concessions made available to them by the State Government/Central Government. This was mainly attributed to the fact that those communities were either found and enumerated only in certain areas of the State or in the case of certain

castes, they were facing social disabilities only in those areas of the State. The removal of area restrictions in terms of the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1976, on the plea that the area restrictions were causing hardship to members of those communities in the areas where they were not specified, has created other problems of misuse of the benefits made available to SC and ST, by certain castes incorrectly posing themselves as a specified caste/tribe. There have also been many cases where based on phonetic similarities in the names of the communities but having no cultural traits of the Scheduled Castes or tribal characteristics, members of certain castes have posed themselves as belonging to some SC or ST and got certificates issued in their favour. The basic purpose of recognising certain castes/tribes in relation to particular areas was to protect the interests of those castes/tribes as compared to persons belonging to those castes/tribes in other areas of the State where they did not deserve that treatment. This was visualised by the Constitution makers as such and there was no immediate cause to protect the interests of similar castes/tribes outside the restricted areas. In fact, as is clear from the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1976, the basic purpose of the Bill was for the readjustment of representation of Parliamentary and Assembly Constituencies. For that purpose the area restrictions in certain cases were also removed. This has caused considerable loss to the genuine Scheduled Castes/Scheduled Tribes who were declared as such in relation to certain areas, as the advanced sections of those castes/tribes, if at all residing in other areas, started availing of all the benefits meant for SC & ST.

6.63 Based on the observations made above, mention is being made of a few cases of misuse of those benefits which were brought to the notice of the Commission. In one such case an association of Scheduled Castes and Scheduled Tribes of village and P.O. Raine, District Mau (Uttar Pradesh), alleged that the District Magistrate, Mau, had issued instructions to the Revenue officials of the district to issue Scheduled Caste certificates to Bhadbhujas and Kahars (Backward Classes) in the name of Gond after removal of area restriction in respect of Gond community in U.P. As such, the benefits meant for Gonds were being cornered by others. According to the Scheduled Castes and Scheduled Tribes Orders, 1950, and the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, the Gond community was declared to be a Scheduled Caste in relation to Bundelkhand Division and Mirzapur District of U.P. and, as such, there was no occasion for the Gonds or other people posing as Gonds in other parts of the State to avail of benefits meant for the real Gonds. The Commission received another representation on

20-2-1994 from the Akhil Bharatvarshiya Gond Mahasabha that no such instructions were issued by the District Magistrate, Mau. They sent to the Commission a copy of the order No.7(8)/93-94 dated 4-10-1993 according to which due care was to be taken while issuing certificates to persons submitting applications declaring themselves to be Gond. The Mahasabha alleged that the real Gond community persons were experiencing difficulty and were being denied caste certificates on various grounds. This problem also arose only because of the removal of area restriction as no Gond could claim Scheduled Caste certificate earlier in Mau District (then a part of Azamgarh District).

6.64 The matter was brought to the notice of the Ministry of Welfare who clarified that the area restriction earlier imposed in respect of Gond community had been removed, that Gond was now included in the list of the Scheduled Castes throughout U.P. and that those Gonds whose ordinary place of residence (permanent abode) fell in U.P. were entitled to Scheduled Caste certificates. The Ministry further stated that persons belonging to Gour/Gonr (गोर) community who posed themselves as belonging to Gond community due to phonetic similarity, were taking advantage of this in Uttar Pradesh and obtaining false Scheduled Caste certificates. It would not be in the interest of real Gonds, a deprived community of Uttar Pradesh, that their share should be taken away by members of communities listed as Other Backward Classes in that State. Hence, the instructions issued by the District Magistrate, Mau, to the Revenue officials of the district that the Scheduled Caste certificates need to be issued after due verification from the Revenue records need to be strictly implemented.

6.65 In another similar case the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, specified Dhankia as a Scheduled Caste throughout Rajasthan except Ajmer District, Abu Road Taluka of Sirohi District and Sunel Tappa of Jhalawar District, where Dhanka, slightly different from Dhankia in pronunciation, was declared as a Scheduled Tribe. Dhanak in Ajmer District and Dhanuk in Sunel Tappa of Jhalawar District were recognised as Scheduled Castes in pursuance of Section 41 of the States Reorganisation Act, 1956 (37 of 1956). The removal of area restriction in terms of the 1976 amendment has resulted in issuance of false certificates in this case also. A large number of persons belonging to Dhankia, Dhanak or Dhanuk communities made the situation confusing in different districts of Rajasthan. For example, some members of these communities after migration to Delhi obtained certificates in the name of Dhanak, a Scheduled Caste in Delhi. At the time of promotion, to avail of benefit of reservation meant for the Scheduled Tribes, the same persons submitted Scheduled Tribe certificates in the name of Dhanka from the

competent authorities of Rajasthan. Before 1976 Dhanka was treated as a Scheduled Tribe in Rajasthan only in Abu Road Taluka of Sirohi District. This subterfuge is resorted to by such persons as generally the number of ST candidates eligible for promotion is much less than SC candidates. A case was referred to the Commission by the Chefair Flight Catering, Indira Gandhi International Airport, indicating that a Staff Handyman entered into service against a post reserved for the Scheduled Castes by submitting a certificate issued by the Deputy Commissioner, Delhi, in the name of Dhanak in 1965. Later, in 1986 when the area restrictions stood removed and Dhanka was declared as a Scheduled Tribe throughout Rajasthan, the employee reportedly produced another certificate in the name of Dhanka (Scheduled Tribe) from Jaipur District of Rajasthan. The Commission took up this case with the District Magistrate, Jaipur, explaining the position of the caste and the import of removal of area restriction applied earlier to Abu Road Taluka of Sirohi District. It was impressed upon the authorities that Scheduled Caste persons having no tribal characteristics were being wrongly issued Scheduled Tribe certificates. A final reply was awaited from the District Magistrate, Jaipur.

6.66 Another employee working in the New Delhi Municipal Council since 1984 produced a Scheduled Caste certificate (Dhanak) issued by the Deputy Commissioner, Delhi, in 1971. He had declared himself to be a resident of Delhi. After a gap of nearly 10 years he produced another certificate from Tahsildar, Virat Nagar, Jaipur District (Rajasthan), indicating that he belonged to Dhanaka community recognised as a Scheduled Tribe in Rajasthan. This he did to avail of the benefit of reservation in promotion for the Scheduled Tribes which is easily available as compared to the promotion vacancies reserved for the Scheduled Castes under the Central Government. It appeared from the record that the employee managed a certificate from Delhi indicating that his parents were hailing from Delhi. If the same employee approached the District Magistrate, Jaipur, for an ST certificate, and the applicant really belonged to Rajasthan, it was necessary for the authorities to take action against the employee who misrepresented facts at the time of his joining service in the NDMC and whose services were liable to be terminated. This was brought to the notice of the District Magistrate, Jaipur, from whom a reply was awaited.

6.67 In view of the position explained above it is felt that the removal of area restrictions in respect of certain castes/tribes in different States has done more harm to the genuine SC & ST than providing any relief to them. In order to ensure that the benefits of reservation

and other relaxations/concessions made available to SC & ST are availed of only by genuine members of these groups which were initially specified as SC & ST in relation to certain areas, based on historical and social factors, the Government of India should review the whole question to reimpose the area restrictions.

Need for training and orientation of key officers involved in the issue of SC/ST certificates

6.68 The specific cases of fake/false certificates cited above do give an indication that a large number of certificates were issued in the past without proper verification about the individual or about his caste status. There have been cases where certificates were issued in the name of a caste which was not at all recognised in that State. There have also been cases of Scheduled Tribe certificates issued by the authorities in certain States where there were no Scheduled Tribes. Quite a substantial number of such certificates might be on account of lack of proper knowledge and understanding of the subject. The Tribal Research Institute, Pune, has over the last two decades developed special expertise in the matter of investigating into SC/ST certificates and done a lot of work on this aspect in Maharashtra. It has also imparted training to the 'competent authorities', Magistrates, etc., in Maharashtra on the procedures for issuing caste/tribe certificates to SC/ST persons seeking jobs under the Government or admissions in educational institutions. This has helped to a great extent in reducing the incidence of cases of false SC/ST certificates in Maharashtra. In view of the problem still existing in other States there is need for proper training and orientation of key officers involved in the issue of SC/ST certificates throughout the country. The Ministry of Welfare may, therefore, work out a plan in consultation with the State Governments and the National Commission for SC & ST to train the authorities made responsible to issue SC/ST certificates. This should also form part of the training of judicial officers at the time of their induction to ensure that the incidence of fake/false certificates is reduced to the minimum, ensuring flow of benefits to genuine SC/ST persons in the country.

Need for expeditious verification of SC/ST certificates

6.69 In terms of the initial instructions from the Government of India, the appointing authorities should verify the community status of an SC/ST employee at the time of his initial appointment as well as promotion against a reserved vacancy. They should check the name of the community to which the SC/ST employee belongs, the State/district/area to which he belongs, his permanent address, etc. The instructions further provided that where an SC/ST candidate was unable to produce a community

certificate from any of the prescribed authorities he might be appointed provisionally on the basis of whatever prima facie proof he was able to produce in support of the claim, subject to furnishing the prescribed certificate within a reasonable time or, if there was genuine difficulty in obtaining a certificate, the appointing authority should itself verify the claim through the District Magistrate concerned. There have been cases where the applicants could manage issuance of certificates through misrepresentation of facts to claim reserved positions. In a number of cases after detection of their actual identities, verifications were made but the punishment of termination was not carried out because of long drawn procedures and court cases.

6.70 The Ministry of Home Affairs issued further instructions during 1982 for suitable steps to be taken by the State Governments to prevent wrong issuance of certificates and to take deterrent action against officials who issued certificates carelessly or deliberately without proper verification. These officials were required to be informed by the State Governments that action would be taken against them under the relevant provisions of IPC (Section 420, etc.), if any of them was found to have issued certificates carelessly and without proper verification, in addition to the action under the appropriate disciplinary rules applicable to them. The State Governments were also advised to take strict measures to detect such cases of non-SC/ST persons holding SC/ST certificates, deprive them of the benefits for which they were not entitled to, and impose penalties and legal action strictly and expeditiously against those who were responsible for the issue of such certificates. The suggestion of the Consultative Committee for the MHA to set up special courts for expediting cases relating to bogus community certificates with deterrent rapidity was also communicated to the State Governments/UT Administrations with the request to give wide publicity to the names of the persons who were convicted of the offences by the courts. In spite of all such measures taken by the Government of India the incidence of fake/false certificates continues all over India. The Government of India had, therefore, to issue instructions in April 1990 that verification of the certificate would have to be made in each case to ensure that the reserved positions went to genuine SC/ST persons. Henceforth the appointing authorities would in the offer of appointment to the candidates claiming to be belonging to SC/ST include a clause as follows: "The appointment is provisional and is subject to the caste/tribe certificates being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste or Scheduled Tribe, 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 certificates." While deciding issuing the above instructions by the Government the intention was to ensure that SC/ST persons did not face difficulties for want of verification of their claims at a later stage. Intention was also to streamline the procedure to check the growing misuse of the facility and to protect the interests of SC/ST persons, because issue of false SC/ST certificates had reached menacing proportions. It may be important to mention here the case of the Indian Institute of Technology, Madras, which could not get proper response from the district authorities to verify the caste/tribe certificates. The Registrar, IIT, requested the Commission to look into the cases of 26 staff members awaiting verification of their caste status from the concerned Revenue authorities (Collectors of the concerned districts). On account of delay in verification the 26 staff members belonging to SC & ST, who were recruited against reserved posts, were waiting for their confirmation against the respective posts on completion of probation for no fault on their part. The Commission brought this case to the notice of the Government of Tamil Nadu for general instructions to be issued to all the Collectors to expedite verification of the community status of SC/ST candidates selected and appointed against reserved vacancies by the IIT or any other Government organisation with reference to the DoPT order of 24-4-1990. No reply was received from the State Government. This is bound to result in serious repercussions in the case of the SC/ST employees concerned. The Commission, therefore, recommends that verification of SC/ST certificates should be completed in each case within three months to avoid harassment to SC/ST candidates.

Statement showing the representation of SCs & STs in the Central Universities

(i) Teaching Posts

S.No.	Name of University	Professors					Readers/Associate Professors					Lecturers/Asstt. Profs. Director of Physical Education					Research Associates/Tutors/Demonstrators/Instructors				
		Total no. of posts	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%
1.	Aligarh Muslim University, Aligarh (1994-95)	290	-	-	-	-	448	-	-	-	-	378	-	-	-	-	164	-	-	-	-
2.	Assam University Silchar (1994-95)	05	-	-	-	-	05	-	-	-	-	06	-	-	-	-	Nil	-	-	-	-
3.	Banaras Hindu University, Varanasi (1-1-94)	290	-	-	-	-	515	-	-	-	-	445	06	1.31	-	-	46	01	0.51	-	-
4.	Hyderabad University, Hyderabad (1-1-94)	79	01	1.26	-	-	74	-	-	01	1.36	84	07	8.43	-	-	-	-	-	-	-
5.	Jamia Millia Islamia University, New Delhi (1992-93)	57	Nil	-	-	-	115	-	-	-	-	156	-	-	01	0.61	22	-	-	-	-
6.	Jawaharlal Nehru University, New Delhi (1994-95)	140	-	-	-	-	146	03	2.7	01	0.6	82	03	2.4	03	3.6	11	-	-	-	-
7.	North-Eastern Hill University, Shillong (1994-95)	68	-	-	08	11.76	Not mentioned	-	-	15	18.51	71	-	-	37	52.11	04	-	-	-	-
8.	Pondicherry University, Pondicherry (31-8-94)	23	Nil	-	-	-	54	02	3.70	Nil	Nil	54	11	20.37	02	3.70	Nil	Nil	Nil	Nil	Nil
9.	Visva Bharti University, Santiniketan (1-4-94)																				

—Not available—

Statements showing the representation of SCs & STs in Central Universities

(ii) Non-Teaching Posts

S.No.	Name of University	Group 'A'				Group 'B'				Group 'C'				Group 'D'				Safaiwala & Scavengers			
		Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%
1.	Aligarh Muslim University, Aligarh (1994-95)	122	-	-	-	-	193	01	0.52	-	-	2532	13	0.51	04	0.16	3021	488	16.15	09	0.30
2.	Assam University, Silchar (1994-95)	02	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
3.	Banarasi Hindu University, Varanasi (1-1-94)	170	03	1.70	01	0.56	515	05	0.90	-	-	3790	73	0.70	01	0.15	1770	504	22.6	-	-
4.	Hyderabad University, Hyderabad (1-1-94)	63	08	12.7	03	4.8	134	11	8.2	2	1.5	399	62	15.5	12	13.0	412	80	19.4	18	4.4
5.	Jamia Millia Islamia University, New Delhi (1992-93)	70	-	-	-	-	49	-	-	-	-	551	02	0.36	-	-	275	05	1.82	01	0.36
6.	Jawaharlal Nehru University, New Delhi (1994-95)	100	08	8.0	02	2.0	199	23	12.1	01	0.5	516	78	15.1	15	0.9	459	105	22.8	11	2.30
7.	North-Eastern Hill University, Shillong (1994-95)	55	-	-	28	50.9	152	01	0.65	84	55.26	713	18	2.52	503	70.54	551	12	2.17	433	75.58
8.	Pondicherry University, Pondicherry (1-8-94)	31	05	16.13	-	-	06	02	25.00	-	-	197	34	17.26	-	-	224	27	12.05	01	0.45
9.	Vivekananda University, Santiniketan (1-4-94)	71	07	9.86	-	-	54	07	11.11	-	-	590	47	7.96	13	2.20	808	238	29.45	96	12.44

CHAPTER VII

ATROCITIES ON SC & ST

The Scheduled Castes and Scheduled Tribes are the two most disadvantaged segments of the weaker sections of our society. Atrocities are committed on them on account of their economic dependence on non-SC/ST landowners, educational backwardness and social discrimination. The Scheduled Castes suffer from the stigma of untouchability. Age-old caste prejudices and practice of untouchability against them lead to commission of atrocities.

7.2 For ensuring alround development of SC and ST and to protect them from all types of exploitation a number of safeguards have been provided in the Constitution of India. Under Article 15 no citizen shall on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to (a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of general public. "Untouchability" stands abolished under Article 17 and its practice in any form is forbidden and punishable under law. Traffic in human beings and forced labour are prohibited under Article 23 of the Constitution of India. Special enactments have been made by the Central and State Governments to protect SC and ST from all forms of exploitation. The SC and ST constitute major bulk of agricultural and other types of labour and majority of the bonded labour also belong to SC and ST. The Minimum Wages Act, 1948, provides for fixing minimum wages for different types of labour and the Bonded Labour System (Abolition) Act, 1976, provides for abolition of the bonded labour system and for release and rehabilitation of freed bonded labourers.

7.3 There are two important legislations related to Article 17, viz., The Protection of Civil Rights Act, 1955 (PCRA), and The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (PAA). Initially the Untouchability (Offences) Act, 1955, had been enacted to abolish the practice of untouchability and social disabilities arising out of it against members of the Scheduled Castes. It was amended in 1977 and is now known as the Protection of Civil Rights Act, 1955. Under the revised Act the practice of untouchability was made both cognizable and non-compoundable and stricter punishment was provided for the offenders. To check the commission of atrocities on SC and ST, The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, came

into force on 31-1-90. The Act, inter alia, specifies some types of offences as atrocities, provides for imposition of stricter penalties for the guilty and setting up of Special Courts for speedy trial of such cases. The crimes under the PCRA were brought under the purview of the PAA as the latter provides for stricter punishment to the offenders. The salient features of the PCRA and the PAA have been discussed in detail in the First Annual Report of the Commission. The trend of cases under the PCRA and the PAA over the last two years, the working of the various provisions of these Acts by the Central and State Governments, the steps taken to check occurrence of such cases, the provision of monetary relief/rehabilitation measures to victims of atrocities, the setting up of Special Courts for speedy trial of such cases and the nature of their disposal have been discussed in this Report.

7.4 Under Article 338 of the Constitution the Commission is required to inquire into specific complaints with respect to the deprivation of rights and safeguards of SC and ST. It is also the duty of the Commission to investigate and monitor all matters relating to the safeguards provided for SC and ST under the Constitution or under any law or any order of the Government. The present Report presents an account of the work done by the Commission during 1993-94 in dealing with specific cases of complaints and on-the-spot enquiries into cases of untouchability offences and atrocities.

Working of The Protection of Civil Rights Act, 1955

7.5 The Twelfth Annual Report of the Ministry of Welfare on the Protection of Civil Rights Act, 1955, for the year 1991 was laid on the Table of Lok Sabha on 24-2-94 and that of Rajya Sabha on 4-3-94. The Report provides information regarding the number of cases registered during 1991, the nature of their disposal at the police and the Court levels and the trend in registration of cases from year to year. State-wise number of cases registered under the Act during 1990 and 1991 may be seen in Annexure I. A comparative analysis of the number of cases registered during three years from 1989 to 1991 indicates that though the number of cases registered increased from 3,700 during 1989 to 3,730 during 1990, it came down to 3,406 during 1991 indicating a decrease of 9.51% in registration of cases over the previous year. As compared to 1990 the decrease in reporting of cases during 1991 was marked in Rajasthan (207:107), Karnataka (807:722), Madhya Pradesh (463:384) and Uttar Pradesh (357:296) while during the same period an increase was noticeable in Andhra Pradesh (203:365), Maharashtra (257:340), Tamil Nadu (787:861) and Gujarat (172:209).

7.6 Majority of the cases were reported from Tamil Nadu (861) followed by Karnataka (722), Madhya Pradesh (384), Andhra Pradesh (365), Maharashtra (340), Uttar Pradesh (296), Gujarat (207) and Rajasthan (107) while no cases were reported from Assam, Punjab and Chandigarh. It is significant that majority of the cases were reported from the southern States. The total number of 1,948 cases reported from Andhra Pradesh (365), Karnataka (722) and Tamil Nadu (861) constituted 57.2% of the total number of cases registered in the country during 1991.

7.7 Measures taken by the State Governments/UT Administrations for effective implementation of the provisions of the PCR Act have not been quite encouraging. Special Courts to try cases registered under the Act were reportedly not set up in Assam, Gujarat, Haryana, Jammu & Kashmir, Kerala, Maharashtra, Orissa, Punjab, Tripura, West Bengal and the Union Territories of Chandigarh, Dadra & Nagar Haveli, Delhi and Pondicherry. The proposal to set up such courts was being considered by the State Governments of Goa and Uttar Pradesh. For taking preventive action in checking untouchability offences, untouchability-prone areas/districts were identified only by four States, viz., Gujarat, Maharashtra, Tamil Nadu and Uttar Pradesh. No State Government had conducted any periodical survey about the working of the Act during 1991 as envisaged under the Act.

7.8 During 1993-94 a sum of Rs.4,40,05,584 was released by the Ministry of Welfare as grants-in-aid to 14 States and one U.T. for implementation of the PCR Act as per details given in Annexure II. It is observed that no grant-in-aid was released to the Governments of Rajasthan and Uttar Pradesh and the U.T. Adm. of Dadra & Nagar Haveli during 1993-94 on account of the fact that these Governments could not utilise the grants released to them during 1992-93 and so did not seek further grants during 1993-94. The Commission is deeply concerned that these State Governments did not appreciate the need and urgency for implementation of the PCR Act, 1955, and did not come forward for availing of grants-in-aid from the Ministry of Welfare.

Working of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

7.9 The implementation of the provisions of the PAA by the State Governments/UT Administrations has not been quite satisfactory. Though Section 14 of the Act provides for setting up of Special Courts for speedy trial of atrocity cases, only Andhra Pradesh and Rajasthan have set up such Special Courts to exclusively deal with atrocity cases.

While in Andhra Pradesh three such courts are located at Chittoor, Guntur and Mahbubnagar, in Rajasthan ten such courts have been set up at Alwar, Pali, Pratapgarh, Jaipur, Ajmer, Udaipur, Jodhpur, Kota, Bikaner and Merta. In other States the courts of some of the existing Sessions Judges have been notified as Special Courts to try atrocity offences in addition to their normal duties. It is doubtful if these courts can do full justice to trial of all atrocity cases. The achievements of the Special Courts set up in Andhra Pradesh and Rajasthan are also not known as no evaluation study has been conducted to assess their impact. The Commission recommends that the Ministry of Welfare may get sample studies conducted by the Tribal Research Institutes, Universities and other research organisations to evaluate the working of the Special Courts dealing with atrocity cases and suggest remedial measures to overcome the problems faced by these courts for ensuring speedy trial of these cases. In order that atrocity cases get priority over other cases and delay is minimised in awarding punishment to the guilty the Commission further recommends that the remaining State Governments/UT Administrations may set up Special Courts exclusively to deal with atrocity cases.

7.10 A positive step to check occurrence of atrocities is to identify atrocity-prone areas and take preventive measures so that incidents of atrocities do not occur. Section 21 of the PAA enjoins upon the State Governments/UT Administrations to conduct periodic surveys of the working of the Act with a view to suggesting measures for better implementation of the provisions of the Act and for identification of areas where SC and ST persons are likely to be victims of atrocities so as to take preventive action to check occurrence of such crimes. According to the information available with the Ministry of Welfare only eight States had identified 69 districts and villages in such districts as atrocity-prone and sensitive areas. Eleven districts each in Bihar and Gujarat, five in Haryana, six each in Karnataka and Maharashtra, seven in Madhya Pradesh, eight villages in three districts of Punjab and twenty districts in Uttar Pradesh have been identified under this category. In order that timely preventive measures could be taken to check incidents of atrocities resulting in loss of life and property it is desirable that all the State Governments/UT Administrations conduct periodic surveys and identify atrocity-prone areas for taking preventive measures.

7.11 Atrocities resulting in death or permanent incapacitation or grievous hurt to SC/ST victims, destruction of their property due to arson or otherwise and social ostracization imposed on them by the dominant caste people hit them hard. To mitigate the financial and other

hardships faced by SC/ST victims of atrocities monetary relief and rehabilitation facilities are provided to them by the concerned State Government/UT Administration. Section 21(2) (iii) provides for the State Governments to take measures for economic and social rehabilitation of victims of atrocities. Barring a few States like Gujarat, Karnataka, Kerala and Orissa other State Governments have not revised the scale of monetary relief paid to victims of atrocities since 1981. The Governments of Jammu & Kashmir, Punjab and West Bengal have not adopted any scale of monetary relief for victims of atrocities. In its First Annual Report the Commission had stressed that the scale of relief needed to be revised as done by the Government of Gujarat and at least Rs.1 lakh provided to the family of an SC/ST person killed in a case of atrocity, particularly if the deceased was an earning member or physically fit to earn. The Commission also recommended that the States which had not prescribed any scale of monetary relief and rehabilitation facilities to SC/ST victims of atrocities might do so without further delay. These recommendations of the Commission are reiterated.

7.12 During 1993-94, an amount of Rs.2,66,13,316 was released by the Ministry of Welfare to 10 States and one Union Territory for implementation of the PAA as per details given in Annexure II. No grants were released to Goa, Himachal Pradesh, Madhya Pradesh, Orissa, Punjab, Tamil Nadu and Pondicherry as the grants-in-aid released to them during the previous year were not fully utilised and no proposals were received from them seeking further financial assistance from the Ministry of Welfare. The position was alike during 1992-93 as States like Maharashtra, Orissa, Punjab and Tamil Nadu did not avail of any grants from the Ministry of Welfare for implementation of the PAA. Apathy on the part of some of the States/Union Territories in utilising the grants-in-aid from the Centre does not indicate a healthy trend. The Commission urges that sincere efforts be made by all States/UTs for availing of the grants from the Ministry of Welfare and for ensuring proper utilisation of the amount in implementation of the PCRA and the PAA.

Cases registered under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

7.13 State-wise and crime-wise numbers of cases of atrocities on SC and ST registered during 1992 have been given in Annexures III and IV. The total number of atrocity cases in the country during 1992 was 22,049. It may be observed that since the promulgation of the PAA there had been progressive increase in the number of atrocity cases from 19,422 during 1989 to 21,245 during 1990 and 22,424 during 1991. But during 1992 the number of such cases decreased to 22,049 indicating a marginal decrease of 1.7% over the previous year.

7.14 Crime-wise classification of the number of atrocity cases during 1990, 1991 and 1992 is given below:

Table 1

S. Type of Nb.cases		Nb.of cases reported during								
		1990			1991			1992		
		SC	ST	Total	SC	ST	Total	SC	ST	Total
1	2	3	4	5	6	7	8	9	10	11
1. Murder		584	124	708 (3.33)	610	146	756 (3.37)	693	118	811 (3.68)
2. Grievous hurt		1,691	259	1,950 (9.18)	1,706	320	2,026 (9.03)	1,619	232	1,851 (8.40)
3. Rape		885	339	1,224 (5.76)	784	334	1,118 (4.99)	835	383	1,218 (5.52)
4. Arson		599	59	658 (3.10)	602	70	672 (3.00)	619	61	680 (3.08)
5. Other IPC offences		13,908	2,797	16,705 (78.63)	13,944	3,908	17,852 (79.61)	14,574	2,915	17,489 (79.32)
Total		17,667	3,578	21,245	17,646	4,778	22,424	18,340	3,709	22,049

N.B. Figures in brackets show the percentage of crimes to the total number of crimes.

7.15 The State/Union Territory-wise number of atrocities reported during 1992 was as follows:

Table 2

S.No.	State/U.T.	No. of cases of atrocities		
		SC	ST	Total
1	2	3	4	5
1.	Andhra Pradesh	724	123	847
2.	Bihar	926	5	931
3.	Goa	3	-	3
4.	Gujarat	1,560	304	1,864
5.	Haryana	86	-	86
6.	Himachal Pradesh	39	-	39
7.	Jammu & Kashmir	25	-	25
8.	Karnataka	720	27	747
9.	Kerala	703	157	860
10.	Madhya Pradesh	4,571	1,957	6,528
11.	Maharashtra	751	331	1,082
12.	Manipur	-	1	1
13.	Orissa	383	129	512
14.	Punjab	18	-	18
15.	Rajasthan	2,204	636	2,840
16.	Sikkim	21	20	41
17.	Tamil Nadu	677	-	677
18.	Uttar Pradesh	4,891	-	4,891
19.	West Bengal	15	14	29
20.	Chandigarh	20	-	20
21.	Dadra & Nagar Haveli	-	5	5
22.	Delhi	2	-	2
23.	Pondicherry	1	1	1
Total		1,8340	3,709	2,2049

It may, however, be noted that these figures do not faithfully reflect the ground situation. These are only the figures reported by the State Governments/U.T. Administrations to the Ministry of Welfare. The actual number of cases of atrocities on SC & ST may be much more than those furnished in the above table. For example, Delhi reported only two cases of atrocities during 1992 but during that year five cases of atrocities that occurred during 1992 were dealt with in the Commission. The break-up of these five cases was: murder 3, rape 1 and other IPC offences 1. Obviously all the cases of atrocities on SC & ST did not come to the notice of the Commission.

Atrocities on Scheduled Castes

7.16 As compared to 1991, there was an increase of 3.93% in the number of cases of atrocities on the Scheduled Castes during 1992. The steady increase in the number of murders of SC persons over the years is a matter of deep concern. The total number of cases of atrocities on SC reported from the two States of **Madhya Pradesh** (4,571) and **Uttar Pradesh** (4,891) alone constituted 51.6% of the total cases of atrocities on SC reported in the country during 1992. The other States which reported more than 500 cases each of atrocities on SC were **Rajasthan** (2,204), **Gujarat** (1,560), **Bihar** (926), **Maharashtra** (751), **Andhra Pradesh** (724), **Karnataka** (720), **Kerala** (703) and **Tamil Nadu** (677).

7.17 The correlation between the size of the SC population and the number of atrocities committed on them in a State/UT gives a correct picture of the incidence of the problem in that State/UT. The number of atrocities on SC per one lakh SC population in the different States/UTs is given in the descending order in the following table:

Table 3

Ranking of States in terms of incidence of crimes against Scheduled Caste persons during 1992

S.No.	State/UT	No. of cases per one lakh SC population
1	2	3
1.	Sikkim	87.19
2.	Gujarat	50.97
3.	Madhya Pradesh	47.48
4.	Rajasthan	28.97
5.	Kerala	24.35
6.	Chandigarh	18.87
7.	Uttar Pradesh	16.71

	<u>All India</u>	<u>13.27</u>
8.	Goa	12.31
9.	Karnataka	9.77
10.	Maharashtra	8.58
11.	Orissa	7.47
12.	Bihar	7.37
13.	Andhra Pradesh	6.84
14.	Tamil Nadu	6.32
15.	Himachal Pradesh	2.98
16.	Haryana	2.65
17.	Pondicherry	0.76
18.	Punjab	0.31
19.	Delhi	0.11
20.	West Bengal	0.09

Atrocities on Scheduled Tribes

7.18 As compared to 1991, there was a significant decrease of 22.4% in the number of cases of atrocities on the Scheduled Tribes during 1992. The maximum number of cases were reported from Madhya Pradesh (1,957) followed by Rajasthan (636), Maharashtra (331) and Gujarat (304).

7.19 The number of atrocities on ST per one lakh ST population in the different States/UTs is given in the descending order in the table below:

Table 4

Ranking of States in terms of incidence of crimes against Scheduled Tribe persons during 1992

S.No.	State/UT	No. of cases per one lakh ST population
1	2	3
1.	Kerala	48.91
2.	Sikkim	22.00
3.	Madhya Pradesh	12.71
4.	Rajasthan	11.62
	<u>All India</u>	<u>5.47</u>
5.	Gujarat	4.93
6.	Dadra & Nagar Haveli	4.57
7.	Maharashtra	4.52
8.	Andhra Pradesh	2.93
9.	Orissa	1.83
10.	Karnataka	1.41
11.	West Bengal	0.37
12.	Manipur	0.16
13.	Bihar	0.08

It is surprising that in spite of the highest literacy rate in Kerala the incidence of atrocities per one lakh ST population is the highest (48.91) in that State.

Disposal of cases registered under the PCR Act and the PAA

7.20 The Twelfth Annual Report of the Ministry of Welfare on the implementation of The Protection of Civil Rights Act for the year 1991 provides the latest information about the disposal of cases registered under the Act by the police and courts during that year. The details are given in Annexures V and VI. It is observed that the disposal of such cases during 1991 has not been satisfactory. Out of 4,280 cases with the police 791 cases (18.48%) were closed after investigation, 2,184 cases (51%) challaned in courts and the remaining 1,305 cases (30.49%) were pending investigation with the police at the end of the year. The situation was no better at the trial stage as out of 8,029 cases in the courts 6,537 cases were pending trial by them. During 1991, 1,492 cases were disposed of by the courts out of which only 125 cases (8%) ended in conviction while 92% ended in acquittal.

7.21 Information regarding disposal of cases registered under The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act by the police and courts during 1990 is contained in the First Annual Report of the Ministry of Welfare on the implementation of that Act for that year laid on the table of Lok Sabha on 25-8-94. Out of 3,778 cases with police during 1990, 632 cases (16.73%) were closed after investigation and 882 cases (23.34%) were pending for investigation. The number of cases challaned in the courts was 2,264 (59.93%). Out of these 2,602 cases with the courts 2,366 cases (90.93%) were pending trial while 236 cases were decided by the courts. Out of the 236 cases disposed of by the courts only 22 cases (9.3%) ended in conviction while 90.7% of the cases ended in acquittal.

7.22 Disposal of cases registered under the PCRA and the PAA by the police and their trial by courts do not indicate a satisfactory situation. Pendency of 30.49% of cases by the police under the PCRA during 1991 and 23.34% of atrocity cases during 1990 goes against the interests of the aggrieved SC/ST parties as delay in investigation tends to weaken the merits of the case at the trial stage. In case of delay in trial due to delay in investigation and challaning of cases the aggrieved persons as well as the witnesses tend to lose interest in the case which may fail due to lack of strong evidence by witnesses at the trial stage. Due care need also be taken by the police during investigation and the SP/ASP should review the cases which are closed by the SHO after investigation to minimise the lapses, if any, at the lowest level.

7.23 The high rate of pendency of cases in the courts under the PCRA (81.4%) during 1991 and atrocity cases (90.93%) during 1990 is also a matter of deep concern. As has been discussed earlier, Special Courts to exclusively deal with atrocity cases have not been set up by the States/UTs except Andhra Pradesh and Rajasthan and designating some of the Sessions Courts as Special Courts to try atrocity cases alongwith their normal duties does not serve the purpose. For speedy trial and prompt disposal of cases it is high time that Special Courts be set up by all the States/UTs exclusively to deal with atrocity cases. It is also highly regrettable that more than 90% of the PCRA and PAA cases taken up for trial by the courts ended in acquittal. In the absence of any specific study it is not possible to state the factors and forces responsible for this dismal state of affairs. However, delay in investigation and challaning of cases by the police and delay in trial of cases in the courts weaken the cases and may be one of the factors in determining the outcome of the cases. The Commission, therefore, recommends that the Ministry of Welfare may impress upon the State Governments/UT Administrations to conduct sample studies to evaluate the working of the PCRA and the PAA with special reference to the problems faced by the police and the judiciary in prompt disposal of cases.

Work done by the National Commission for SC & ST during 1993-94

7.24 The Atrocities and Protection of Civil Rights (APCR) Wing of the Commission deals with all matters relating to the practice of untouchability against members of SC and atrocities committed on SC & ST, incidence of bonded labour and non-payment of minimum wages to members of SC and ST. The cases which come to the notice of the Commission through complaints/representations received from SC/ST aggrieved persons or their kins, communications received from the Welfare Associations and Voluntary Organisations working for the uplift of SC and ST and from publicmen like MPs and MLAs are examined in the Commission. Incidents of atrocities and untouchability offences also come to the notice of the Commission through the press. These matters are taken up with the concerned authorities for factual reports. In important cases wireless messages are sent to the district authorities for furnishing detailed reports containing facts of the case and information about the action taken by the local administration, e.g., legal action, action to restore peace and provide protection, monetary relief and other rehabilitation measures, measures to prevent recurrence of incidents of atrocities, etc. In cases of atrocities of serious nature wireless messages are sent to the concerned field offices of the Commission to conduct on-the-spot enquiries and submit enquiry reports

urgently. In selected cases the Chairman and Members of the Commission or officers of the Commission Headquarters visit the places of occurrence of the crimes and conduct detailed enquiries. The reports received from the local administration and the field offices and all the on-the-spot enquiry reports are examined and lapses/shortcomings on the part of the concerned authorities are brought to their notice for taking prompt remedial measures. Issues on which the local administration is urged to take action include prompt registration and investigation of cases by the local police, challaning of cases in courts, application of relevant Sections of the PCRA and the PAA, arrest of the accused, payment of monetary relief of relevant Sections of the PCRA and the PAA, arrest of the accused, payment of monetary relief to victims of atrocities or their families, provision of rehabilitation measures for them and taking adequate security measures for maintaining law and order in the area.

7.25 During 1993-94, 2,394 complaints were received in the APCR Wing out of which no action was taken on 425 complaints. Thirtytwo of these complaints which were filed were unsigned, 3 did not involve any atrocities, 364 were not addressed to the Commission and were mere endorsements and 26 cases were of miscellaneous nature not coming within the purview of the Commission. A total of 797 complaints pertaining to 418 cases including 44 on-the-spot enquiry reports were dealt with in the APCR Wing during the year under report. Crime-wise classification of the 418 cases pertaining to 17 States is given in Annexure VII. It may be observed that 388 cases (92.8%) related to SC and 20 cases (4.8%) to ST and 10 cases (2.4%) were of general nature relating to the problems of both SC and ST. The maximum number of cases were received from Uttar Pradesh (188) followed by Rajasthan (62), Delhi (60), Bihar (22), Haryana (21), Orissa (16), Madhya Pradesh (13) and Maharashtra (10). Less than 10 cases each were from the remaining nine States of Tamil Nadu (6), Kerala (5), Karnataka (4), Andhra Pradesh (3), Gujarat (2), Jammu & Kashmir (2), West Bengal (2), Assam (1) and Tripura(1).

7.26 The crime-wise break-up of these 418 cases is as follows:

Practices of untouchability	44 (10.5%)
Murder	65 (15.6%)
Grievous hurt	2 (0.5%)
Rape	32 (7.6%)
Arson	5 (1.2%)
Other IPC offences	260 (62.2%)
Miscellaneous	10 (2.4%)

It is significant that a majority of the cases registered under the PCR Act were from ~~Uttar Pradesh~~ and ~~Delhi~~. The State-wise break-up of the 44 cases is as follows:

Delhi	17	Haryana	3
U.P.	13	Orissa	2
Rajasthan	8	Maharashtra	1

A majority of these cases related to abuse of SC persons by mentioning the names of their castes in a derogatory manner.

7.27 Representations received in the field offices of the Commission from aggrieved SC and ST persons and from other sources are also dealt with by the respective offices and efforts are made with the local authorities to mitigate the suffering and hardships of SC/ST victims. (The details of the cases relating to atrocities and untouchability offences received and dealt with in the field offices of the Commission during 1993-94 are given in Annexure VIII). It may be observed that out of 1,291 cases received by them 1,072 related to SC and 177 to ST while 42 related to problems faced both by SC and ST. The total number of cases dealt with by the field offices was 1,273 and 18 cases were pending disposal. Out of the total number of cases, 145 were PCR Act cases majority of which were from Rajasthan (40) followed by Madhya Pradesh (38) and Tamil Nadu (22).

On-the-spot enquiries into incidents of atrocities

7.28 In addition to taking up complaints relating to atrocities and untouchability offences with the local administration, on-the-spot enquiries into specific incidents of atrocities on SC and ST were conducted by the Commission in 44 cases during 1993-94. Out of the 44 cases 38 relate to SC while in 6 cases ST persons are victims of atrocities. State-wise break-up of the 44 cases is as under:

Uttar Pradesh	19	Tamil Nadu	3
Orissa	6	Maharashtra	2
Karnataka	4	Gujarat	1
Rajasthan	4	Madhya Pradesh	1
Bihar	3	Delhi	1

In 6 cases the Chairperson/Members and officers of the Commission Headquarters visited the places of occurrence of the atrocities for on-the-spot enquiry while 38 enquiries were conducted by the field offices of the Commission.

7.29 Crime-wise break-up of the 44 cases of atrocities into which enquiries were conducted by the Commission is as follows:

Murder	22
Rape	6
Other IPC offences	15
Practice of untouchability	1

While 32 cases involved atrocities on individuals, 12 cases involved mass atrocities or those on more than one SC/ST person.

7.30 A review of the cases dealt within the Commission and the on-the-spot enquiry reports on incidents of atrocities gives an insight into the causes of atrocities, role of the police in taking prompt action in investigation and challaning of cases in courts, arrest of the accused, payment of monetary relief, extension of rehabilitation facilities to victims and their families and lapses, if any, on the part of the police and other officials in dealing with the cases.

Causes of atrocities

7.31 Factors and forces leading to perpetration of atrocities on members of SC and ST are well known. These are committed by the dominant caste groups on the disadvantaged groups due to socio-economic considerations. Economic dependence of the poor on rich non-SC/ST persons, social discrimination arising out of the practice of untouchability and the age old urge to subjugate the weakest of the weaker sections of the people make SC and ST vulnerable and victims of atrocities. The causes of atrocities in the 418 cases dealt with in the Commission during 1993-94 are classified in the table below:

Table 5

<u>(1) Untouchability and social disabilities</u>		
(i)	Abuse in caste name	56
(ii)	Denial of use of water from the common pitcher in the school	3
(iii)	Obstruction to use common pathway	3
(iv)	Dashing against a non-SC person by an SC cyclist	2
(v)	Quarrel over drawing water from a public tap	1
(vi)	Refusal to serve tea in a teashop	1
(vii)	Refusal to perform traditional occupation of beating drum	1
(viii)	Inter-caste marriage	1

(2) Economic causes

(i)	Land dispute	62
(ii)	Dispute over financial transactions	7
(iii)	Exploitation by non-SC/ST employers; non-payment of wages/forced and bonded labour	7
(iv)	Looting/damaging standing crop of SC person	4
(v)	Dispute over irrigation of field	2
(vi)	Atrocity by a doctor for non-payment of fees	1
(vii)	Cutting down tree from the land of an SC person	1
(viii)	Dispute over cutting grass	1
(ix)	Business rivalry	1
(x)	Forcible occupation of a petrol pump	1
		<hr/> 87 <hr/>

(3) Rape 32

(4) Political causes

(i)	Political rivalry	4
(ii)	Compelling SC persons to vote for a particular party	1
		<hr/> 5 <hr/>

(5) Miscellaneous causes

(i)	Demolition/forcible occupation of house/shop of SC	8
(ii)	Charges of theft/looting/dacoity	6
(iii)	Misusing official position for harassing SC/ST persons	6
(iv)	Dispute over drainage and other problems between SC and their neighbours	4
(v)	Long standing personal enmity	3
(vi)	Clashes on account of installation of the statue of Dr.B.R.Ambedkar	3
(vii)	Retaliation by non-SC persons against teasing of their women by SC	3
(viii)	Illicit relations between members of SC and non-SC/ST	3
(ix)	Atrocity under influence of liquor	1
(x)	Retaliation against registration of complaint in the police station against a non-SC	1
(xi)	Police firing	6
(xii)	Death due to police excess	2
(xiii)	Cases of miscellaneous nature which were not atrocities	10
		<hr/> 56 <hr/>

(6) Uncertain causes 170

7.32 It may be noted that in 170 cases the reasons of commission of atrocities were not known and some of these might have been committed due to some spontaneous reasons. The break-up of the causes of atrocities may be summarised as follows:

Economic causes	87(35.1%)
Untouchability and social disabilities	68(27.4%)
Rape	32(12.9%)
Political causes	5(2.0%)
Miscellaneous causes	56(22.6%)

Cases of extreme violation of human dignity

7.33 It is extremely unfortunate that in recent years, say for the last 10 years or so, there has been an increase in cases of atrocities violating human dignity like stripping, of SC/ST women, forcing SC and ST persons to drink urine and eat human excreta, blackening their faces, shaving their heads and parading them in village streets. Some such cases which came to the notice of the Commission during the year under report are mentioned below:

(1) In village Dauna, P.S.Ghurpur, District Allahabad, Uttar Pradesh, a Scheduled Caste woman was stripped naked and paraded through the village by some members of OBC on 21-1-94. The Chairperson visited the place of occurrence for an enquiry. The incident was an outcome of slapping of an OBC boy by the son of the SC victim for stealing peas from her field five days before the occurrence of the incident of stripping. The police had full knowledge that the accused had threatened to take revenge against the victim but no timely preventive action was taken by them to defuse the growing tension in the village.

(2) A 40-year old SC woman of village Bhagatpur Mirza, P.S. Kudh Fatehgarh, Moradabad District, Uttar Pradesh, was stripped and paraded naked by Yadavs of the locality on 11-2-94 due to an allegation of teasing of a Yadav girl by the son of the victim.

(3) Seven tribals of village Potgaon, District Bastar, Madhya Pradesh, were compelled to pay heavy fines and made to drink urine and excreta water on suspicion of theft of an idol of the village temple. They were made victims of the inhuman treatment by non-tribal villagers on the instigation of a local magician.

(4) An SC person of Kotaganahalli village in Kolar District, Karnataka, was beaten by non-SC villagers on 28-1-94 and forced to eat his own excreta on refusal to perform the customary rite of beating drum and making an announcement in the village regarding the change of date of a village festival.

7.34 Cases of such inhuman treatment meted out to members of SC and ST by the dominant non-SC/ST castes, usually some groups of the Other Backward Classes, are a matter of deep concern for the nation. The victims of such crimes are not only subjected to physical torture but they suffer from life long trauma. Such incidents do not normally take place abruptly, but are the outcome of growing tension between members of different caste groups over a period of time on petty matters. The Commission recommends that the police must take prompt preventive action in defusing tension at the initial stage. However, where such incidents of extreme violation of human dignity take place exemplary punishment should be awarded to the accused after summary trial.

Application of appropriate Sections of PAA and PCRA

7.35 The PAA prescribes stricter penalties for commission of atrocities than those provided under the IPC and the PCRA. In order that the accused found guilty for committing atrocities on SC and ST are awarded penalties under the provisions of the PCRA and the PAA the Commission examines the complaints carefully and advises the police to ensure that relevant sections of the PAA and the PCRA are applied to all cases of atrocities and untouchability offences. In 306 out of the 418 cases dealt with in the Commission during the year it was not known whether appropriate sections of these two Acts were applied by the police while registering the cases against the accused as replies from the concerned police officers were awaited. Out of the remaining 112 cases, appropriate sections of the PAA and the PCRA were applied only in 49 cases (43.75%). In the remaining cases either the relevant sections of these two Acts had not been applied or wrong sections thereof had been applied by the police. This shows that either the local police are not fully conversant with the provisions of the two legislations or do not take due care in examining the cases after investigation and incorporating relevant sections in the cases. The PAA is a recent enactment and many functionaries including police officials are not aware of its provisions, partly or fully. For proper application of the provisions of this Act the Commission recommends that police officials, particularly SHOs, should be imparted training by conducting orientation courses on this subject. The PAA also needs to be translated in regional languages and widely circulated to create awareness about the law not only among the police and other officials but among the general population.

Monetary relief and rehabilitation measures

7.36 Section 21 (iii) of the PAA provides for economic and social rehabilitation of SC/ST victims of atrocities. Death or permanent incapacitation of an earning member or a

member physically fit to earn, destruction of their houses, crops, livestock or other properties and imposition of social boycott on them hit the economy of the SC/ST families hard. Besides security and police protection they need urgent economic support for their sustenance. Unfortunately the working of this important provision of the PAA has not been up to the mark. Some of the State Governments like Jammu & Kashmir and West Bengal have not felt the need to adopt a scheme of monetary relief and rehabilitation measures for SC/ST victims of atrocities. The position in the remaining States is also not satisfactory. Barring a few States like Karnataka, Orissa and Rajasthan the old scales of monetary relief have not been revised in most of the States and the present monetary relief is too meagre to compensate the loss suffered by the affected families. In Kerala no monetary relief is provided to an SC/ST victim of rape. Finally, the purpose of the scheme is defeated in many cases where the victims of atrocities are not paid any compensation or there is inordinate delay in sanction of such relief to them. A review of the 418 cases cited above reveals that in 120 cases the victims of atrocities were eligible for monetary relief. But out of these the position regarding payment of monetary relief was not known in 67 cases. In 20 out of the remaining 53 cases the victims were not paid monetary relief while it was sanctioned in 33 cases. The position was not known in 67 cases and in 15 out of the remaining 23 cases no rehabilitation measures were taken up to relieve the hardships faced by the victims of atrocities or their families.

7.37 Non-payment of monetary relief and lack of rehabilitation facilities, delay in sanction and provision of such facilities and inadequate relief provided to victims defeat the very purpose of these provisions of the PAA. In the First Annual Report the Commission had urged for prompt sanction of monetary relief and implementation of rehabilitation measures for SC/ST victims of atrocities and also urged for enhancing the scale of relief for different types of atrocities as had been done by the Government of Rajasthan. The Commission had recommended that in the case of loss of life of an SC/ST person or permanent incapacitation of an earning member or a person physically fit for earning his livelihood in cases of atrocities at least Rs.1 lakh should be paid as monetary relief to the affected family. That recommendation is reiterated here.

The role of police

7.38 Official functionaries, particularly the police, play a key role in checking occurrence of atrocities against SC and ST and in taking prompt action in maintaining peace and normalcy in the atrocity affected area. The police are responsible for maintaining law and

order which helps in preventing commission of atrocities and after atrocities are committed the police are mobilised to provide protection to life and property of the victims, arrest the accused, promptly investigate and challan the case so that the guilty do not go unpunished. Unfortunately the role of the police in matters relating to incidents of atrocities on SC and ST has not been without blemish. On-the-spot enquiries conducted and the cases dealt with by the Commission reveal direct involvement of the police in commission of atrocities in some case and their negligence leading to perpetration of atrocities on members of SC and ST in quite a few cases. Out of the 418 cases cited above 75 cases (17.94%) revealed lapses on the part of the police while in 2 cases both the police and other officials of the local administration were negligent in discharging their duties in dealing with the cases of atrocities. Lapses on the part of the local officials other than the police came to light in 8 cases. The cases of direct involvement of police in atrocities on SC and ST included:

Death in police custody	2
Death in police firing	2
Death due to chasing by the police	1
Torture in police custody	3
Rape by police	3
Other cases of police harassment/excess	38
Involvement/negligence on the part of the police leading to commission of atrocities	3

52

In the remaining 23 cases the lapse of the police was evident in matters like registration of FIR, arrest of the accused and provision of security to the victims of atrocities.

7.39 Some of the cases showing the involvement/negligence of the police in incidents of atrocities are mentioned below:

(1) An SC youth died on 20-2-94 in P.S. Sarai, Vaishali District, Bihar, due to police beating.

(2) An SC person died on 12-9-93 in P.S. Kalavai, North Arcot District, Tamil Nadu, during police interrogation.

(3) In P.S. Karari, Allahabad District, Uttar Pradesh, the police opened fire on a truck on 20-1-94 resulting in death of an SC person.

(4) On 30-3-94 two SC persons were killed in Shastrinagar, Meerut District, Uttar Pradesh, as the police chased a mob and opened fire on them.

- (5) According to a newsitem in The Pioneer of 17-6-93 the police attacked the tribals of Manibeli village, Dhule District, Maharashtra, for their participation in the Narmada Bachao Andolan and allegedly raped two tribal women on 16-4-92 when the women fled with their children to escape from the police assault.
- (5) The Hindi daily Janasatta of 14-7-93 reported the case of an SC woman who was detained at P.S. Triveniganj, Saharsa District, Bihar, for three days and raped by the police. The issue was raised in the Bihar State Assembly on 9-7-93 and the Chief Minister gave an assurance that the case would be inquired into by the Home Commissioner.
- (6) The Indian Express of 2-8-93 published a news that a tribal girl who was allegedly raped by an ASI of Kadma P.S. of Jamshedpur in Bihar had attempted to commit suicide in front of the office of the Superintendent of Police when the police refused to lodge an FIR in the case.
- (7) Caste clashes at Rajapalayam town, Kamarajar District, Tamil Nadu, resulting in death of an SC person and a non-SC person and destruction of property and crops were on account of a minor incident on 24-5-93 in which a non-SC person carrying firewood on his head accidentally hit an SC boy standing on the road. The tension mounted in the village and an SC person stabbed a non-SC person to death on 26-5-93. In retaliation on 28-5-93 the non-SC stabbed an SC person who succumbed to his injuries on his way to the hospital. Although the police were aware of the mounting tension between the SC and non-SC in village, no precautionary measures were taken by them to defuse the tension. Had the police taken prompt action after the incident on 24-5-93, the lives of two persons could have been saved.
- (8) In a similar incident at Badanavalu village in Nanjangud Taluk, Mysore District, Karnataka, failure on the part of the police in providing protection resulted in killing of three SC persons on 25-3-93. The genesis of the incident was the demand of the SC residents for entry into the Siddeswara temple on 2-2-93 which was not favoured by the Lingayat youths. Although the SC moved the police to resolve the issue, no timely action was taken by them.
- (9) Apathy of the local police in taking precautionary measures is evident in the caste clash at Pet-Ammapur village, P.S. Sholapur, Gulbarga District, Karnataka, resulting in killing of an SC person and inflicting of injuries to many on 7-12-93. The incident was a sequel to annoyance of non-SC persons over refusal of the Holey (SC) to perform customary rite of digging grave for burial of the body of a non-SC woman on 30-10-93. Had the police taken steps to settle the issue this unfortunate incident would not have happened.

(10) Large scale arson and clashes took place at Kudala Hangargi village, P.S. Aland, Gulbarga District, **Karnataka**, on 24-11-93 on account of long standing enmity between Holeyas (SC) and Lingayats (non-SC) on the pretext that an SC person did not clear way for a non-SC lorry driver. The police failed to take any preventive action.

(11) Caste clash and arson took place at Hagargundagi village, P.S. Farathabad, Gulbarga District, **Karnataka**, on account of delay in serving tea to SC persons by a non-SC teastall owner. The police did not take any preventive action.

(12) Delay on the part of the police in searching a missing SC girl of village Kalandpur, P.S. Makhi, Unnao District, **Uttar Pradesh**, led to her gang rape and murder on 25-2-94.

(13) The police were silent spectators to the incident on 28-1-94 in which Yadavs (non-SC) of village Gauripura, P.S. Dhanari, Budayun District, **Uttar Pradesh**, attacked the SC villagers and looted their properties.

7.40 The police are also often found guilty of the charge of supporting non-SC perpetrators of atrocities as will be evident from the following instances:

(1) In village Bara, P.S. Nawabganj, Bareilly District, **Uttar Pradesh**, Kurmis (non-SC) assaulted an SC person on 18-1-94 and urinated on his face. Instead of registering an FIR and helping the aggrieved SC person the police refused to register any complaint and thereafter made him to compromise the case under threat. On taking up the matter with the SSP, Bareilly, a case was registered against the accused under relevant sections of the PAA and action initiated against the erring police officials.

(2) An SC resident of village Jhandapur, P.S. Link Road, Ghaziabad District, **Uttar Pradesh**, was forcibly evicted from his house by some non-SC residents of the village on 21-2-91. Although the aggrieved SC person reported the matter to the police and the District Magistrate and the Civil Court, Ghaziabad, granted stay not to dislodge the SC person from his house, the accused non-SC persons took law into their own hands and constructed houses and shops on the disputed land by evicting the SC person from his house and demolishing his house on 6-2-91. The police failed to provide any protection to the SC person and registered false cases against him at the instance of the non-SC persons. The DSP (CID) inquired into the matter and held that there was dereliction of duty on the part of the SHO. The aggrieved person represented his case to the field office of the Commission at Lucknow on 20-4-93 and after an on-the-spot enquiry the matter was taken up with the Govt.

of Uttar Pradesh for provision of monetary relief to the victim to compensate the loss suffered by him and to take action against the erring police official under the provisions of the PAA.

(3) In village Chowferwa, Sadar Kotwali of Fatehpur, Uttar Pradesh, two SC persons, father and son, were done to death by some Yadavs (non-SC) due to political rivalry and land dispute, and the culprits put the dead bodies inside their house and set fire to them. The local police treated the case as fire accident and deleted the name of the main accused in the FIR.

(4) In village Khilawanpur, P.S. Bindki, Fatehpur District, Uttar Pradesh, an SC person was murdered by his employer as he availed of a loan for purchase of a fodder-cutting machine and a buffalo in the name of the deceased. Although the father of the deceased lodged three complaints, the police did not initiate any action in the matter. On the contrary, the police supported the accused who had a long criminal record and registered a false FIR mentioning names of persons who were not involved in the incident. The case was thereafter investigated and a final report submitted treating the allegations as false.

7.41 Non-application of appropriate sections of the PAA in atrocity cases also shows the negligence of the police in handling such cases with due care. A reference has been made to this aspect in para 35 above. Out of 112 cases, sections of the PAA were applied by the police only in 47 cases (41.96%). In 2 cases these were applied only after the Commission took up the matter with the police. In as many as 63 cases (56.25%) there were lapses on the part of the police as relevant sections of the PAA had not been invoked.

7.42 In its First Annual Report the Commission made a number of recommendations for effective implementation of the PAA and to check the occurrence of incidents of atrocities. All those recommendations continue to hold good and need be implemented in letter and spirit so that incidents of atrocities are minimised to a great extent, victims of atrocities provided adequate relief and rehabilitation facilities promptly for overcoming hardships faced by them, speedy police and judicial actions taken against the accused and preventive and precautionary measures taken in atrocity-prone areas. Needless to emphasise rapid socio-economic development of SC and ST will save them from various forms of exploitation and atrocities. The Commission also reiterates that in the interests of SC & ST the recommendation of the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes for entrusting the subject of 'atrocity' to the Ministry of Home Affairs need be implemented without further delay.

Brief notes on important cases of atrocities on SC & ST enquired into by the Commission during 1993-94

1. Killing of three SC persons in a group clash at Badanavalu village, P.S. Nanjangud (Rural), Mysore District, Karnataka, on 25-3-94

The field office of the Commission at Bangalore conducted an on-the-spot enquiry into the incident of killing of three SC persons by Lingayat youths in Badanavalu village, P.S. Nanjangud (Rural), Mysore District, on 29/30-3-94. The incident which took place on 25-3-94 was on account of the entry of SC persons into a private Siddeswara temple.

Lingayats comprising about 200 families are the predominant non-SC community in Badanavalu village followed by about 150 Adi-Karnataka (SC) families. The Lingayats are not well educated and are mostly agriculturists while the Adi-Karnatakas (SC) are educationally advanced and hold good official positions in the Central and the State Governments. Practice of untouchability was rampant in the village. The Lingayats did not allow the SC villagers to enter into the Siddeswara temple on 30-1-94 for the inaugural function. On intervention of the police only selected important persons belonging to all communities including SC were allowed entry into the temple. Apprehending obstruction for further entry into the temple on Ugadi (Karnataka New Year) falling on 26-3-94 the SC filed a complaint in the Police Station for police protection in case any untoward incident happened on account of their entry into the temple on 26-3-94.

The Lingayat youths did not favour the entry of the SC into the temple and took revenge on them on 25-3-94 when 15 SC were returning from a neighbouring village after witnessing a cricket match. They attacked the SC with deadly weapons. Two SC persons died on the spot and another succumbed to injuries on his way to the hospital.

A case was registered against the accused but Section 3(2)(V) of the PAA, 1989, and Section 7 of the PCRA, 1955, were not applied to the case. Out of the 36 accused identified only 20 could be arrested. The Chief Minister and the Minister for Social Welfare, Karnataka, visited the place on 29-3-94 and agreed to a CBI inquiry into the incident. The Circle Inspector of Police, Nanjangud, was suspended.

Monetary relief of Rs.1 lakh was paid to the kin of each of the three deceased and each of the three seriously injured was paid Rs. 15,000. No rehabilitation measures were adopted by the local administration.

The Home Secretary, Govt. of Karnataka, was addressed demi-officially to intimate to the Commission about the decision of the State Govt. for handing over the case to the CBI, the arrest of all the accused and their trial in a Special Court to avoid delay, application of relevant Sections of the PAA, 1989, and the PCRA, 1955, provision of rehabilitation measures for the kin of the deceased and taking effective measures for eradication of the evil practices of untouchability.

2. Mass atrocity on the Scheduled Castes of village Gauripura, P.S. Dhanari, District Badayun Uttar Pradesh on 28-1-94

The news about the incident of mass atrocity on the Scheduled Castes of Gauripura village on 28-1-94 appeared in various newspapers on 1-2 February, 1994. Shri Ram Dhan, Chairperson and Dr. Sarojini Mahishi, Member of the Commission, visited Gauripura on 3-2-1994 for an on-the-spot enquiry.

Gauripura is exclusively inhabited by the Scheduled Castes (Jatav). The village is surrounded by Yadav dominated villages. The incident of looting and arson in Gauripura on 28-1-94 was an outcome of two earlier incidents of quarrel between the SC and Yadavs. Three months prior to the incident of dated 28-1-94 Popi, a Jatav youth of Gauripura, had collided with four non-SC persons while going on a bicycle to Dhanari. Popi was beaten up by them and in retaliation some SC persons of Gauripura beat these four youths. This enraged the non-SC and Yadavs from the neighbouring villages assembled in Gauripura. They came in 20-22 tractors, fully armed. The tension was defused when a policeman intervened and the SC begged excuse for the incident.

In another incident four armed persons belonging to Kachhi community from village Chandpura raided Gauripura on 4-1-94 and looted the houses of four Jatavs. Two SC persons were injured in firing by the aggressors. The accused had earlier attempted to molest a girl which was objected to by two of the victims and the aggressors settled the score by looting their houses.

A case was registered against the accused but no effective preventive steps were taken by the police to check any untoward incident. The two policemen who were put on patrolling duty were also never seen by the villagers.

In the incident on the night of 28-1-94 about 30 Yadavs from three neighbouring villages of Badayun and Moradabad districts raided Gauripura. They looted the

belongings of the SC and damaged their houses. A case was registered on 29-1-94 at 5.30 A.M. at Dhanari P.S. under relevant sections of the IPC and the PAA. Twelve out of the 13 named accused were arrested. Orders were issued for setting up a temporary Police Post in the village.

Monetary relief of Rs.65,000 was provided to 50 affected persons and the District Magistrate, Badayun, moved the State Govt. for enhancing the ceiling of Rs.2000 towards compensation for loss of property as the extent of damage was very high. The incident is a clear case of police negligence. Had proper preventive action been taken by the police to check the series of incidents, the incident would not have taken place on 28-1-94.

The policemen who were put on patrolling duty were not present when the incident occurred, nor did the firemen reach the place. No prompt action was taken by the SHO and senior police officials even after a complaint was lodged by the victims. The police also did not get the injured medically examined.

The Chairperson wrote a D.O. letter to Chief Minister of U.P. about the lapses of the police and urged for penal action against the erring police officials u/s 4 of the PAA. The Chief Minister was also requested to provide adequate compensation to the SC victims and for implementing various socio-economic programmes for integrated development of Gauripura village.

3. Rape of a 16 year old SC girl of village Kucheel,
P.S. Kishangarh, District Ajmer, Rajasthan

Raigarh Yuva Shakti Sangathan, New Delhi represented to this Commission regarding alleged rape and murder of an SC girl of village Kucheel, P.S. Kishangarh, District Ajmer. An on-the-spot enquiry conducted by the field office of the Commission at Jaipur revealed that Kumari Sushila (16), daughter of Shri Nathu Ram (SC), was raped and murdered by a Muslim youth of the village when the victim went to graze her cattle in the field on 17-8-93. Her body was found lying in the field on 18-8-93. The accused confessed the commission of the crime. He was arrested and a case registered against him under appropriate sections of the IPC and wrongly under section 3(1)(5) of the PAA which should have been section 3(2)(v). Monetary relief of Rs.10,000 was paid to the parents of the deceased and security of police guard provided for them.

The district police authorities were urged by the Commission to apply sections 3(2)(v), 3(1)(xi) and 3(1)(xii) to the case.

Death of an SC person of village Bairagipur, P.S. Sarai-Akil, District Allahabad, Uttar Pradesh, on 20-1-94 in police firing

The incident of killing of an SC person of Bairagipur village by police firing came to the notice of the Chairman of this Commission during his visit to village Douna in connection with the enquiry into the incident of stripping an SC woman and parading her naked on 1-2-94. An on-the-spot enquiry was conducted by the field office of the Commission at Lucknow.

The incident occurred on 20-1-94 when the police of P.S. Karari opened fire on a truck which was being loaded with potato in Mukhampur village. The police fired on the suspicion that decoits who were involved in a dacoity and firing in a neighbouring village were hiding inside the truck. In spite of shouting by the innocent workers engaged in loading of potato in the truck and without verifying the truth the police resorted to firing causing death of one SC person and injuring three others including an SC person.

The widow of the deceased was sanctioned monetary relief of Rs.10,000 by the district administration and Rs.1,500 by the S.P. (Rural), Allahabad. Two bighas of Gram Sabha land were also allotted to her and a house under the Indira Awas Yojana was being constructed for the family of the deceased.

Since the crime was committed by the police, the Home Secretary, Govt. of Uttar Pradesh, was addressed for arrest of the erring police officials and action against them under relevant sections of the IPC and sections 3(1)(x), 3(2)(v) and 4 of the PAA.

5. Murder of five SC persons and serious injuries to eight others by Kurmis of village Khilawanpur, P.S. Bindki, District Fatehpur, Uttar Pradesh on 24-12-93

The news of killing of five SC persons, assault and arson in Kanjar Ba'sti of Khilawanpur village appeared in various newspapers and shocked the Commission. An on-the-spot enquiry was jointly conducted by Shri Ram Dhan, Chairperson, Dr. Sarojini Mahishi and Chaudhari Hari Singh, Members, on 29-12-93.

The cause of the incident was old enmity between Kanjars (SC) and Kurmis (non-SC) and a minor quarrel between a Kanjar and a Kurmi when both were under the influence of liquor. One Kurmi named Ramkishore misbehaved

with Shyam Lal (SC) and in retaliation the members of Shyam Lal's family went to the house of Ramkishore misbehaved with his wife and daughter. This infuriated the Kurmis and Kurmis of the neighbouring villages attacked Kanjars on 24-12-93. Their houses were looted and set on fire. Four Kanjar men and two women who were fleeing to escape were caught and murdered. Although the Incharge of Bindki Police Station visited the village on 23-12-93 and was aware of the mounting tension in the village, he did not report the matter to his superiors for taking preventive action to check occurrence of any untoward incident. Other police officials also failed to take timely action in preventing commission of the crimes.

A case was registered against the Kurmis and out of the 89 accused 51 were arrested till 25-12-93. The main accused was at large till 29-12-93. The kin of the deceased were provided Rs.1 lakh each. An amount of Rs.5000 each was sanctioned to the seriously injured and Rs.2,500 each to those not seriously injured.

The Chairperson of the Commission wrote to the Chief Minister, Uttar Pradesh, for investigation of the case by the Special Investigation Cell of the State Govt. and for taking action against the erring police officials u/s 4 of the PAA for their lapses.

6. Murder of an SC person of village Momasar, Tahsil Dungargarh, District Churu, Rajasthan, on 18-11-93

Smt. Bhanwari Devi, wife of Shri Rewant Ram, village Momasar, Tahsil Dungargarh, District Churu, represented to the Commission regarding killing of her husband by a Jat villager. The field office of the Commission at Jaipur conducted an on-the-spot enquiry into the incident on 18/20-2-94.

The enquiry revealed that while the deceased Rewant Ram, his wife Bhanwari Devi, and his nephew Kheta Ram were working in their field, one Gopi Ram S/o Bhanwara Ram (non-SC), tried to drive his camel cart through their field. On being resisted by them Gopi Ram retreated his cart but came back with his father Bhanwara Ram and abused them in caste name and attacked Rewant Ram with a sharp agricultural instrument. The victim died on the spot. Bhanwari Devi, her son and daughter and Kheta Ram were also attacked by Bhanwara Ram and were seriously injured.

A case was registered in P.S. Dungarpur with appropriate sections of the IPC and the PAA and was challaned in the court. Monetary relief of Rs.10,000 was paid to the widow of the victim. The Chairperson of the

Commission wrote a D.O. letter to the Chief Minister, Rajasthan, recommending sanction of at least Rs.1 lakh to the widow as monetary relief, sanction of widow pension to her and monetary relief to other injured persons.

7. Death of a tribal youth of village Mohammedpur Bujurg, P.S. Sarai, District Vaishali, Bihar, on 22-2-94 in police custody

The field office of the Commission at Patna conducted an on-the-spot enquiry into the incident of death of a tribal youth of village Mohammedpur Bujurg, P.S. Sarai, District Vaishali, in custody. The enquiry revealed that five policemen in plain clothes came to the village on 19-2-94 and took one Mahesh, son of Shri Ram Shobhit, to the police station for interrogation regarding a murder case. He was beaten by the police on 20-2-94 and succumbed to the injuries.

A case was registered against the five accused police officials and monetary relief of Rs.10,000 sanctioned to the kin of the deceased. Since the death occurred due to the police brutality, the case was referred to the National Human Rights Commission for taking further action in the matter. The NHRC informed the Commission that it had taken up the matter with the Government of Bihar.

8. Killing of eight SC persons and injuries to 30 others on 26-12-93 in village Damani, P.S. Haspura, District Aurangabad, Bihar

The field office of the Commission at Patna conducted an on-the-spot enquiry into the incident of killing of eight SC persons in village Damani, P.S. Haspura, District Aurangabad. The enquiry revealed that the incident was on account of clashes between the supporters of the Indian Peoples Front (IPF) and the Mazdoor Kisan Sangram Samity (MKSS). On 25-12-93 the supporters of the MKSS held a meeting to condole the killing of three of their supporters by the IPF men on 30-11-93 in village Kasturipur, P.S. Obra, District Aurangabad. The meeting was held at Pachrukha village which is a stronghold of the IPF activities. The IPF supporters attacked the gathering, pelted stones at them and opened fire injuring two persons. In retaliation, the supporters of the MKSS raided village Dhamni Bigaha, one kilometre from Pachrukha, in police outfit and set fire to the houses. They also fired at the police who reached the village after getting the news. Out of the ten who died, eight were SC while one of the injured belonged to SC.

Thirtyfive houses belonging to SC were destroyed in arson.

Monetary relief of Rs.25,000 each was paid to the families of the deceased. The SC families whose houses were burt were sanctioned one house each under the Indira Awas Yojana. Sixtytwo accused were arrested and four cases registered against them in P.S. Haspura. The SHO, Haspura, and the Inspector of Police were placed under suspension. The police authorities were advised to apply relevant sections of the PAA to the case.

9. Alleged rape of two SC hostellers in the Girls' Residential School, Arah, Bhojpur District, Bihar

On the basis of a newsitem appearing in the Patna edition of the Hindustan Times regarding alleged rape of two SC inmates of the Residential Girls' School, Arah, the field office of the Commission at Patna conducted an on-the-spot enquiry into the incident.

It was found that no complaint had been leged at the local police station about the incident. Both the victims denied that they were raped by the Hostel Superintendent. No criminal case, therefore, could be instituted against the Hostel Superintendent but he was transferred and placed under suspension.

The incident revealed that some basic amenities including a compound wall for providing safety to the inmates of the hostel had not been provided and the hostel was also located in a secluded place. The district authorities were, therefore, urged to shift the hostel to a safer place and appoint female staff including the Hostel Superintendent.

10. Stripping of a Scheduled Caste woman of village Dauna, P.S. Ghoorpur, District Allahabad, Uttar Pradesh and parading her in the village by some non-SC/ST persons of the village

According to press reports an SC woman of village Dauna, P.S. Ghoorpur, District Allahabad, was stripped and paraded in the village on 21-1-94. Shri Ram Dhan, Chairperson of the Commission, visited the village on 1-2-94 for an on-the-spot enquiry.

This incident was the outcome of confrontation between Rajesh, son of the victim, Smt. Shivpatia, and one Chandrashekhar Patel (Kurmi) of the same village on 16-1-94 over plucking of peas from the field of her brother-in-law.

In course of heated argument Rajesh slapped Chandrashekhar. This enraged the Kurmis of the village who assembled in the S.C. locality and threatened them of dire consequences. On receipt of a verbal complaint from the Kurmis two police constables came to Dauna on 17-1-94 and the matter was compromised in their presence.

On 21-1-94 when Smt. Shivpatia alongwith two women was returning from the field, three Kurmis stopped them. Two of the Kurmis caught the hand of Smt. Shivpatia and assaulted her. Smt. Kabutari pleaded with them not to misbehave with Smt. Shivpatia as her son (Rajesh) was guilty of slapping the Kurmi boy and she should not be punished for the same. The Kurmis did not pay any heed to this appeal and assaulted Smt. Kabutari also. Thereafter they assaulted Smt. Shivpatia and stripped her. She was then paraded naked in the village. Some other Kurmis also joined them.

On the receipt of a complaint a case under relevant sections of the IPC and the PAA was registered at P.S. Ghoorpur. All the 15 accused were arrested. Although the local police was aware of the growing tension between the SC and Kurmis after the incident of 16-1-94, no preventive action was taken by them to avoid this unfortunate incident that occurred five years later. The Additional S.P., Jamunapur, the Circle Officer, Bara, the S.H.O., P.S. Ghoorpur, and four other police officials were placed under suspension and the SSP, Allahabad, was transferred. Gun licences of both the licence holders of the village were suspended and the PAC was deputed in the village.

Monetary relief of Rs.10,000 was given to the victim by the district administration and amount of Rs.1 lakh was sanctioned from the Chief Minister's Relief Fund. The case was also investigated by the Chairman, Revenue Board, U.P.

The Chief Secretary, Govt. of U.P., was demiofficially addressed for initiating action against the erring police officials u/s 4 of PAA, providing employment to the son of the victim and providing basic amenities in the SC locality of the village.

11. Death of two Scheduled Tribe persons of village Rampuri, P.S. Sirsi, District Guna, Madhya Pradesh

On the basis of a press report the field office of the Commission at Bhopal conducted an on-the-spot enquiry into the death of two ST persons of village Rampuri, P.S. Sirsi, District Guna. The enquiry revealed that Shri Door Singh and his son, Shri Karan Singh, were beaten up in the presence of other family members and kidnapped on the night of 19-1-94 from their village by dacoit Prahlad Bairagi and

his associates. The accused left his photograph alongwith a letter with the deceased declaring that he killed the two ST persons on account of personal enmity and hanged the bodies on a tree near the village.

A case was registered under appropriate sections of the IPC and the PAA. Monetary relief of Rs.2 lakhs was provided to the family of the deceased. Land measuring 15 Bighas was allotted and one member of the family provided employment as Waterman in the Tribal Hostel. Two plots under the Indira Awas Yojana and an amount of Rs.13,000 for construction of houses for the affected family on these plots were also sanctioned by the State Govt. For security of the family the District Administration had sanctioned to it an arms licence. The final outcome of the case was awaited.

12. Alleged police atrocities on SC persons of village Jaysankharpur, P.S. Kujang, District Jagatsinghpur, Orissa

On the basis of a press report the field office of the Commission at Bhubaneswar conducted an on-the-spot enquiry into the incident on 5-11-93. It was revealed that the incident was on account of a dispute over ownership of a piece of land cultivated by SC persons but sold to non-SC persons by the owner. The SC persons prevented the legal owners of the land in taking physical possession and cultivation of the land they had purchased. Since the SC was tillers of the land, they filed appeals in the court of Tahsildar under the OLR Act and in the court of the Sub-Collector, Jagatsinghpur, which were dismissed. The alleged police atrocity was the outcome of an attack on them by the SC when the police visited the village and arrested five SC persons for looting the standing crop and damaging a hut of a non-SC person.

The SC persons also alleged that their women were molested and one of them was raped by the police. But no FIR was lodged by them.

The State Commission for Women also conducted an enquiry and claimed that no rape had been committed. The Govt. of Orissa ordered a judicial inquiry into the incident.

13. Alleged attempt to rape and threat to kill a Scheduled Tribe woman of Balanga Road, Nimapara, District Puri, Orissa

Smt. Malati Das, a tribal woman of Balanga Road, Nimapara, represented to the Commission that one Shri Budha

Das of Bapanpura village had attempted to rape her, threatened to kill her and her family members and set fire to her house. An on-the-spot enquiry conducted by the field office of the Commission at Bhubaneswar confirmed the allegations. The accused had tried to set fire to the house of Smt. Malati Das but it did not catch fire due to rains.

The Commission took up the matter with the local administration for early investigation of the case and application of sections 3(1)(v) and 3(2)(iii) of the PAA to the case. The case has since been chargesheeted and the accused arrested and kept in judicial custody.

ANNEXURE I

Statement showing variation in the cases registered under The Protection of Civil Rights Act, 1955, in various States/UTs during the years 1991 and 1992

S.No.	State/UT	No. of cases registered with the police during		Variation between the year 1990 and 1991	%age variation
		1990	1991		
1	2	3	4	5	6
1.	Anuhra Pradesh	203	365	+162	+80.3
2.	Assam	Nil	-	-	-
3.	Bihar	371	NA	NA	NA
4.	Goa	5	8	+ 3	+60.1
5.	Gujarat	172	209	+ 37	+21.5
6.	Haryana	-	2	+ 2	+200
7.	Himachal Pradesh	NA	18	-	-
8.	Jammu & Kashir	2	3	+ 1	+50.0
9.	Karnataka	807	722	- 85	-10.5
10.	Kerala	24	21	- 3	-12.5
11.	Madhya Pradesh	463	384	- 79	-17.1
12.	Maharashtra	257	340	+ 83	+32.3
13.	Orissa	43	42	- 1	- 2.3
14.	Punjab	-	-	-	-
15.	Rajasthan	207	107	-100	-48.3
16.	Tamil Nadu	787	861	+ 74	+ 9.4
17.	Tripura	-	Nil	-	-
18.	Uttar Pradesh	357	296	- 61	-17.1
19.	West Bengal	-	1	+ 1	+100.0
20.	Chandigarh	Nil	-	-	-
21.	Delhi	5	3	- 2	-40.0
22.	Pondicherry	27	21	- 6	-22.2
Total		3730	3405	-325	(-)8.71

Source : Annual Report on the Protection of Civil Rights Act, 1955 for the year 1991 (twelfth Report), Ministry of Welfare.

ANNEXURE II

Statement showing the amounts released by the Ministry of Welfare to the State Govts./UT Admns. under the Centrally Sponsored Scheme of implementation of The Protection of Civil Rights Act, 1955, and The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, during 1993-94.

S.No.	State/UT	Amount released under	
		PCR Act	PA Act
		Rs.	Rs.
1.	Andhra Pradesh	61,82,000	29,20,000
2.	Bihar	6,50,000	20,00,000
3.	Goa	5,000	-
4.	Gujarat	36,65,500	56,09,000
5.	Haryana	4,69,000	52,500
6.	Himachal Pradesh	1,00,000	-
7.	Karnataka	1,12,10,800	36,76,000
8.	Kerala	5,03,100	14,96,000
9.	Madhya Pradesh	16,75,000	-
10.	Maharashtra	1,43,64,684	2,50,000
11.	Orissa	2,00,000	-
12.	Punjab	12,00,000	-
		1,40,000	
13.	Rajasthan	-	51,00,000
14.	Tamil Nadu	2,00,000	-
	1992-93		
	1993-94	67,36,500	
15.	Uttar Pradesh	-	49,59,816
16.	West Bengal	3,90,000	50,000
17.	Dadra & Nagar Haveli	-	5,00,000
18.	Pondicherry	13,14,000	-
Total		4,40,05,584	2,66,13,316

Grand total : Rs 7,06,18,900

ANNEXURE-III

Statement showing offence-wise distribution of cases
of atrocities on the Scheduled Castes during 1992

S.No.	State/U.T.	Nature of crime and number of cases reported					
		Murder	Grievous hurt	Rape	Arson	Other IPC offences	Total
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	39	225	49	8	403	724
2.	Bihar	36	49	48	44	749	926
3.	Goa	1	-	-	-	2	3
4.	Gujarat	29	72	10	17	1432	1560
5.	Haryana	5	5	24	-	52	86
6.	Himachal Pradesh	1	7	5	-	26	39
7.	Jammu & Kashmir	-	3	2	4	16	25
8.	Karnataka	21	25	17	26	631	720
9.	Kerala	10	19	39	21	614	703
10.	Madhya Pradesh	97	236	287	70	3881	4571
11.	Maharashtra	15	35	36	22	643	751
12.	Orissa	11	16	17	25	314	383
13.	Punjab	7	5	4	-	2	18
14.	Rajasthan	63	148	114	79	1800	2204
15.	Sikkim	-	-	-	-	21	21
16.	Tamil Nadu	12	9	2	14	640	677
17.	Uttar Pradesh	343	762	174	289	3323	4891
18.	West Bengal	1	1	3	-	10	15
19.	Chandigarh	1	2	4	-	13	20
20.	Delhi	1	-	-	-	1	2
21.	Pondicherry	-	-	-	-	1	1
Total		693	1619	835	619	14574	18340

Source : Statistical returns received in the Commission
from the State Govts./U.T. Adms.

ANNEXURE-IV

Statement showing offence-wise distribution of cases
of atrocities on the Scheduled Tribes during 1992

S.No.	State/U.T.	Nature of crime and number of cases reported					
		Murder	Grievous hurt	Rape	Arson	Other IPC offences	Total
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	14	26	21	3	59	123
2.	Bihar	-	-	-	-	5	5
3.	Gujarat	17	40	34	2	211	304
4.	Karnataka	1	-	1	2	23	27
5.	Kerala	-	4	11	3	139	157
6.	Madhya Pradesh	50	84	217	16	1590	1957
7.	Maharashtra	13	30	34	3	251	331
8.	Manipur	1	-	-	-	-	1
9.	Orissa	2	2	14	8	103	129
10.	Rajasthan	19	45	42	23	507	636
11.	Sikkim	-	1	-	-	19	20
12.	West Bengal	1	-	9	1	3	14
13.	Dadra & Nagar Haveli	-	-	-	-	5	5
Total		118	232	383	61	2915	3709

Source : Statistical returns received in the Commission
from the State Govts./UT Adms.

ANNEXURE V

Statement showing the analysis of cases disposed of by the police during 1991
under The Protection of Civil Rights Act, 1955

S.No.	State/UT	Total No. cases with the police 1991	No. of cases closed after investigation	Percentage of cases closed to total No. of cases	No. of cases challaned in the courts in 1991	Percentage of cases challaned to total No. of cases	No. of cases pending for investigation in 1991	Percentage of pending cases to total No. of cases
1	2	3	4	5	6	7	8	9
1.	Andhra Pradesh	781	190	24.35	201	25.73	390	49.93
2.	Assam	Nil	-	-	-	-	-	-
3.	Bihar	NA	-	-	-	-	-	-
4.	Goa	9	2	22.22	5	55.55	2	22.22
5.	Gujarat	216	13	6.01	177	81.94	26	12.03
6.	Haryana	3	1	33.33	1	33.33	1	33.33
7.	Himachal Pradesh	24	5	20.83	12	50.00	7	29.16
8.	Jammu & Kashmir	3	2	66.66	1	33.33	-	-
9.	Karnataka	818	82	10.02	510	62.34	226	27.62
10.	Kerala	30	9	30.00	11	36.66	10	33.33
11.	Madhya Pradesh	389	145	37.27	135	34.7	109	28.00
12.	Maharashtra	381	33	8.66	218	57.21	130	34.1
13.	Orissa	57	4	7.0	27	47.36	26	45.61
14.	Punjab	Nil	-	-	-	-	-	-
15.	Rajasthan	176	51	28.97	43	24.43	82	46.54
16.	Tamil Nadu	1032	214	20.72	647	62.69	171	16.6
17.	Tripura	Nil	-	-	-	-	-	-
18.	Uttar Pradesh	330	38	11.51	170	51.51	122	36.96
19.	West Bengal	1	-	-	1	100.00	-	-
20.	Chandigarh	Nil	-	-	-	-	-	-
21.	Delhi	5	-	-	4	80.00	1	20
22.	Pondicherry	25	2	8.00	21	84.00	2	8.00
Total		4280	791	18.48	2118	51.00	1305	30.49

Source : Annual Report on the Protection of Civil Rights Act, 1955,
for the year 1991 (Twelfth Report), Ministry of Welfare.

ANNEXURE VI

Statement showing the analysis of cases disposed of by the courts during 1991
under The Protection of Civil Rights Act, 1955

S.No.	States/UT	Total No. of cases with courts	No. of cases ending in convic- tion	Percentage of conviction to total No. of cases	No. of cases ending in acquittal	Percentage of acquittal to total No. of cases	No. of cases pending with courts	Percentage of cases pending to total No. of cases
1	2	3	4	5	6	7	8	9
1.	Andhra Pradesh	654	28	4.3	314	48.0	312	47.7
2.	Assam	-	Nil	-	-	-	-	-
3.	Bihar	-	-	Not available	-	-	-	-
4.	Goa	13	-	-	3	23.07	10	76.92
5.	Gujarat	494	-	-	64	12.95	430	87.04
6.	Haryana	1	-	-	-	-	1	100.00
7.	Himachal Pradesh	36	-	-	4	12.5	32	88.88
8.	Jammu & Kashmir	11	-	-	3	27.27	8	72.72
9.	Karnataka	1707	4	0.23	254	14.87	1449	84.88
10.	Kerala	60	3	5.0	15	25.00	42	70.00
11.	Madhya Pradesh	1440	13	0.90	45*	3.1	1382	96.00
12.	Maharashtra	434	-	-	-	-	434	100.00
13.	Orissa	415	-	-	31	7.46	384	92.53
14.	Punjab	-	-	-	Nil	-	-	-
15.	Rajasthan	282	20	7.09	75	26.6	187	66.3
16.	Tamil Nadu	1561	29	1.85	509	32.60	1023	65.5
17.	Tripura	-	-	-	Nil	-	-	-
18.	Uttar Pradesh	847	26	3.06	39	4.60	782	92.32
19.	West Bengal	1	-	-	-	-	1	100.00
20.	Chandigarh	-	-	-	Nil	-	-	-
21.	Delhi	18	1	5.55	-	-	17	94.00
22.	Pondicherry	55	1	1.81	11	20.00	43	78.18
Total		8029	125	1.55	1367	17.0	6537	81.4

* The State Government has shown 21 cases as compounded.

Source: Annual Report on the Protection of Civil Rights Act, 1955, for the year 1991 (Twelfth Report),
Ministry of Welfare.

ANNEXURE VII

Cases of atrocities dealt with in the APCR Wing of the Commission's Headquarters during 1993-94

S.No.	State/UT	Murder			Grievous hurt			Rape			Arson			Other IPC			PCR Act	Misc.	G.T.
		SC	ST	Total	SC	ST	Total	SC	ST	Total	SC	ST	Total	SC	ST	Total			
1.	Andhra Pradesh	1	-	1	-	-	-	-	-	-	-	-	-	2	-	2	-	-	3
2.	Assam	-	-	-	-	-	-	-	-	-	1	1	-	-	-	-	-	-	1
3.	Bihar	6	-	6	-	-	-	2	2	4	1	-	1	11	-	11	-	-	22
4.	Gujarat	-	-	-	-	-	-	-	2	2	-	-	-	-	-	-	-	-	2
5.	Haryana	1	-	1	-	-	-	1	-	1	-	-	-	16	-	16	3	-	21
6.	Jammu & Kashmir	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	1	2
7.	Karnataka	1	-	1	-	-	-	-	-	-	-	-	-	2	-	2	-	1	4
8.	Kerala	1	-	1	-	-	-	-	-	-	-	-	-	2	1	3	-	1	5
9.	Madhya Pradesh	2	-	2	-	-	-	1	-	1	-	-	-	8	-	8	-	2	13
10.	Maharashtra	1	1	2	-	-	-	-	1	1	-	-	-	3	3	6	1	-	10
11.	Orissa	2	-	2	-	-	-	-	-	-	-	-	-	8	4	12	2	-	16
12.	Rajasthan	8	2	10	-	-	-	2	-	2	-	-	-	40	1	41	8	-	62
13.	Tamil Nadu	4	-	4	-	-	-	-	-	-	-	-	-	2	-	2	-	-	6
14.	Tripura	-	-	-	-	-	-	1	-	1	-	-	-	-	-	-	-	-	1
15.	Uttar Pradesh	32	-	32	2	-	2	18	-	18	3	-	3	117	1	118	13	2	188
16.	West Bengal	-	-	-	-	-	-	-	-	-	-	-	-	1	-	1	-	1	2
17.	Delhi	3	-	3	-	-	-	1	1	2	-	-	-	37	-	37	17	1	60
Total		62	3	65	2	-	2	26	6	32	4	1	5	250	10	260	44	10	418

ANNEXURE VIII

No. of cases relating to atrocities and untouchability received and disposed of by the field offices of the Commission during 1993-94.

Sl.	Field office	Total number of cases									No. of PCR Act cases out of the total no. of cases
		Received			Disposed of			Pending disposal			
		SC	ST	Total	SC	ST	Total	SC	ST	Total	
1.	Ahmedabad	43	14	57	43	14	57	-	-	-	1
2.	Bangalore	29	4	33	29	4	33	-	-	-	11
3.	Bhopal	75	30	105	75	30	105	-	-	-	38
4.	Bhubaneswar	24	3	27	24	3	27	-	-	-	4
5.	Calcutta	6	-	6	6	-	6	-	-	-	1
6.	Chandigarh	31	-	31	31	-	31	-	-	-	-
7.	Guwahati	2	2	4	2	2	4	-	-	-	-
8.	Hyderabad	138	40	178	121	39	160	17	1	18	13
9.	Jaipur	109	20	149	129	20	149	-	-	-	40
10.	Lucknow	209	-	209	209	-	209	-	-	-	-
11.	Madras	84	1	85	84	1	85	-	-	-	22
12.	Patna	52	7	59	52	7	59	-	-	-	-
13.	Pune	213	56	311 *	213	56	311 *	-	-	-	5
14.	Shimla	16	-	16	16	-	16	-	-	-	2
15.	Thiruvananthapuram	21	-	21	21	-	21	-	-	-	8
Total		1072	177	1291	1055	176	1273	17	1	18	145

No cases pertaining atrocity and untouchability from Agartala and Shillong offices.

* Includes 42 cases of general nature relating to both SC and ST.

CHAPTER VIII

MISCELLANEOUS SAFEGUARDSMiscellaneous Complaints

The Commission has also been receiving complaints of miscellaneous nature which do not involve breach of any particular safeguard or right of SC/ST under the Constitution, a law or an order of the Government but where the Complainants feel harassed or inconvenienced or seek help. During 1993-94, the Commission received about three hundred petitions containing complaints of miscellaneous nature, out of which eighty seven cases were considered suitable for some action. These petitions included cases of requests for providing financial assistance for community services, extension of welfare schemes and some problems faced by individuals belonging to SC/ST like non-payment of their dues, denying facilities meant for SC/ST people, etc. A brief picture of these complaints is given in the following paragraphs:

8.2 Nineteen cases were received which sought financial assistance. Most of these cases related to matters like construction of houses, providing financial assistance to SC/ST, compensation due to loss of property in fire, help for higher education, training courses, establishment of village or small scale industries, etc. All cases have been taken up with the concerned authorities for taking necessary action. In addition to this fourteen cases relating to community services were received in the Commission, out of which five cases relate to activities of Societies, cleanliness and providing basic facilities to SC/ST. Cases have been taken up with the concerned authorities. In many cases replies are awaited. Four cases related to digging of tubewells for SC/ST, hospital facilities, establishing of rest-houses and developmental problems of SC/ST. All these cases have also been taken up with the concerned authorities.

8.3 Cases regarding welfare schemes of SC/ST were also received in the Commission from SC/ST representationists of various States/UTs. In many of these cases, the representation was regarding waiver of loan or enhancement of loan limit. These cases have also been taken up with the concerned authorities. In one case the concerned authority informed that the petitioner was not entitled to waiver of loan. In another case regarding enhancement of loan limit, the Commission did not take any action as the petitioner had requested the Commission to approach the bank authorities for enhancement of bank loan, which the Commission feels, is outside its working area.

8.4 A case regarding penalty imposed on a Scheduled Caste L.P.G. dealer was received. The case was taken up with the principal, i.e., M/s Bharat Petroleum Ltd. The Company informed that the dealer was involved in malpractices and was issuing irregular unauthorised gas connections and that was the reason why penalty was imposed. The Commission did not find any reason to pursue the matter further.

8.5 Other cases received were regarding such matters as providing electricity connections and allotment of land, etc., to persons belonging to SC/ST. The requests have been taken up with the concerned authorities for suitable action although they are not cases of violation of any safeguard or right.

8.6 Four cases regarding illegal and forceful occupation of shops of SC persons by higher caste people were received. Out of these four cases one was sub-judice. Other cases were referred to concerned authorities for suitable action.

8.7 The Commission received 22 petitions regarding general problems of SC/ST. Most of the cases were regarding alleged harassment of SC/ST over different matters such as non-payment of salaries, some demands of SC/ST and developmental problems, etc. All the cases were referred to State Governments or the authorities concerned for suitable action except for one case which did not fall under the purview of this Commission. Final replies in the above cases are still awaited.

8.8 Two petitions regarding provision of better drinking water facilities to SC/ST were also received. Both the cases were taken up with concerned authorities for suitable action.

8.9 A case regarding death of tribals in Madhya Pradesh allegedly due to malaria was received in this Commission. It could not be established that the deaths had occurred due to malaria but were caused by different ailments and old age. However, the State Government has been advised to take up concerted programmes for these primitive tribals for whom nothing much seems to have been done.

8.10 A case was received regarding removal of a liquor godown. The concerned District Magistrate was requested to take necessary action in the matter.

8.11 A complaint was received regarding cheating of a SC person on the pretext of giving employment to his daughter. The petitioner was advised to approach the local police.

8.12 Maintenance of cleanliness in a SC basti was the

subject matter of another petition received. The District Collector was requested to take suitable action.

8.13 A case regarding cancellation of travelling agency belonging to a SC person was received. The matter was taken up with the concerned authority (Indian Airlines) and it was found that the petitioner himself was involved in malpractices and had no prima facie case for the Commission to take any further action.

Preference in allotment of Distributive agencies/dealership for petroleum products

8.14 Population statistics show that one out of every four Indians belong either to a Scheduled Caste or to a Scheduled Tribe. The SC & ST constitute the bulk of the poorest sections of the population and, therefore, these groups are to be the focus of many schemes and measures initiated by the Government. Economic development of SC & ST has been conceived as one of the main instruments for their socio-economic transformation on egalitarian lines. It was, therefore, quite appropriate that our Constitution framers incorporated specific Articles to ensure that the State took active part in promoting socio-economic development amongst weaker sections of the population.

8.15 Article 46 included among the Directive Principles of State policy provides: "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 Caste and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation".

8.16 Article 15(4) empowers the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for Scheduled Castes and Scheduled Tribes.

8.17 Efforts made in the country for the development of Scheduled Castes and Scheduled Tribes have not resulted in bringing about substantial improvement in their economic condition primarily on account of the enormity of the problem. Even now, due to lack of resources in urban areas majority of Scheduled Castes and Scheduled Tribes continue to live in slums. In rural areas they are affected by poverty and get poor returns due to outdated methods of production in their traditional occupations. In the fast changing economic scene in the country today many of the traditional occupations are being replaced by new occupations. Simple forms of trading is getting displaced by complex production and distribution systems. The handicaps suffered by the SC & ST in the past do not allow them to attain prosperity and consequent social equality by providing them proper opportunities of getting equal share

of the fruits of economic progress as members of a democratic and welfare society. There is need and scope for supportive measures in the area of trade and commerce also in favour of SC/ST. One such area of support is in the matter of providing dealerships to them in the commodities over which the State exercise control.

8.18 Reservation of 25% in dealerships for Scheduled Castes and Scheduled Tribes was introduced by then Ministry of Petroleum, Chemicals and Fertilizers in September, 1977. From September 1977 to June 1980 advertisements for dealership were common for all categories with preference to applicants belonging to Scheduled Castes and Scheduled Tribes, subject to other things being equal. Guidelines were revised by the Ministry in June, 1980 and it was desired that locations for new dealerships to be allotted to Scheduled Scheduled Caste and Scheduled Tribe persons may be predetermined by the Industry and a roster maintained Statewise. There are four Public Sector Corporations engaged in Petroleum activities, viz; Indian Oil Corporation Ltd; Hindustan Petroleum Corporation Ltd; Bharat Petroleum Corporation Ltd; and Indo-Burma Petroleum Ltd. These four Corporations allot the dealership/distributive agencies for petrol, diesel, Superior Kerosine Oil and L.P.G. etc. 25% of all these dealerships are reserved for Scheduled Castes and Scheduled Tribes.

8.19 Further keeping in view of the fact that the majority population in Arunachal Pradesh, Meghalaya, Nagaland and Mizoram belong to Scheduled Tribes, the percentage reservation of dealerships etc. for Scheduled Tribes in these States has been kept in line with the ST population percentage (rounded to the nearest ten) in the State and the same is mentioned below:

Table 1

State	Percentage dealerships to be awarded to ST	Percentage of open category
Arunachal Pradesh	70	30
Meghalaya	80	20
Nagaland	80	20
Mizoram	90	10

Source: Policy Guidelines for selection of Dealers and Distributors up dated upto 1-1-93.

8.20 According to the policy Marketing Plans based on 100 point formula have been adopted on a rolling basis to ensure reservation of percentage in respect of all categories for each State/Union Territory.

8.21 The policy further says that in case any dereservation is necessitated in a particular year necessary adjustment would be made in the subsequent Marketing Plan by converting equivalent number of locations under "Open" category into the concerned "Social Objective" category.

8.22 The Indian Oil Corporation began implementing reservation orders from the year 1974 for all their agencies/dealership excepting 'B' site retail outlets i.e. dealerowned and dealer-operated outlets. Other companies were nationalised later and reservation in dealership allotment was made effective in respect of these companies only from 23-9-77.

8.23 The Government have accepted reservation in allotment of quotas in dealership in petroleum products. In this regard the first step would be to ensure that these opportunities are brought to the notice of aspirants SC & ST who are actually potential beneficiaries. It will also be necessary to suitably modify the terms and conditions of the agency which may vary from one area to another depending on the general socio-economic conditions in each case so that adequate number of potential candidates come forward to take up the agencies. Particularly in the more backward areas even the relaxed conditions may be quite stiff. Therefore, to workout a system of assistance directly or in collaboration with other institutions to enable those who do not have their own resources to come into this business. When any individual SC/ST may take any agency he must be helped to stabilise himself in the area which is unknown to him. The above mentioned steps are taken and carefully looked after by the institution/Government. In this way the constitutional obligation has been fully discharged.

8.24 It has been observed that in some cases LPG agencies allotted to SC/ST persons were terminated on account of reasons which cannot perhaps be called as fully justified. In this way the dealership/agency was allotted to fulfil the requirement of reservation and after some time they terminate the dealerships/agency of these SC/ST on flimsy grounds and they have no sympathy for the weaker section of the society. Although we know that these SC/ST beneficiaries belonging to comparatively better section amongst the Scheduled Castes and Scheduled Tribes. If these SC/ST persons from economically better background face problems, the conditions of those from poorer background can be imagined. In these cases it cannot be denied that some of the problems are due to inherent bias and prejudice against the members of SC & ST.

8.25 The concerned Ministry should pay attention to critically review the working of reservation of the distributive agencies. It is also important to implement these reservation orders in letter and spirit. The concerned authority should effectively monitor the system of reservation and any complaints/representation regarding non-implementation of these orders should be dealt quickly and correctly. The interest of SC/ST and their conditions should also be kept in mind.

8.26 Ministry of Petroleum and Natural Gas has issued letter to four PSUs saying that reservation will be provided to the members of Scheduled Castes/Scheduled Tribes in the matter of engaging road transport trucks for movement of all petroleum products, such as LPG, HS/HSD, BKO, Lubes etc. in bulk or packed by the Public Sector Oil Companies. The percentage of reservation will be 15% and 7½% for Scheduled Castes and Scheduled Tribes respectively on all India basis. The Scheduled Caste/Scheduled Tribe members should, however, fulfil all tender conditions and they will not be eligible for any price preference or relaxation of standards. If adequate number of Scheduled Caste/Scheduled Tribe candidates are not available in any particular year the unfilled quota may be allotted to the unreserved categories in that year. However, the unfilled quota may be carried forward to the next tender also and offered to Scheduled Caste/Scheduled Tribe candidates. If the quota of the previous tender is not filled even in the next tender, the unfilled quota of the previous tender may be dereserved and allotted to general categories. This reservation policy was to be made operative w.e.f. 18.8.1994 and was to be made applicable to all future cases where new transportation agreements have to be concluded by the oil companies.

8.27 The information regarding number of dealership/agencies granted and number of dealership/agencies given to Scheduled Castes/Scheduled Tribes during the year 1993-94 (as on 1-4-94) collected from the Ministry of Petroleum is given below:

Table 2

Product	SC	ST	Total
1. Retail outlet Petrol/Diesel Pump	774 (5.02%)	266 (1.72%)	15,413
2. S.K.O/L.D.O	287 (4.74%)	152 (2.54%)	6,053
3. L.P.G.	478 (11.13%)	183 (4.26%)	4,292

Source: Ministry of Petroleum & Natural Gas Letter No.P-17011/4/94-Mkt. dated 18-8-94.

These figures reflect that not even in a single category the reservation provided in dealership/distributionship has been achieved.

8.29 The low representation of Scheduled Castes and Scheduled Tribes in these distributory agencies/dealership is generally attributed to non-availability of qualified SC/ST persons having good financial background and also having the experience, knowledge, talent, devotion, interest etc. in the respective field.

Representations received in the Commission

8.30 Eleven representations were received regarding allotment of dealership/agencies for L.P.G. in the Commission. In seven cases requests were made by the representationists that their cases may be recommended by the Commission or the Commission recommend for grant of dealership. It does not come within the purview of the Commission to recommend cases for dealership agencies without any specific and valid grounds of violation/deprivation of economic or any type of safeguards for SC/ST. Four cases have been taken up with the authorities.

8.31 In one case a Scheduled Caste person got the gas agency of Indian Oil Corporation Ltd. at Bijnore w.e.f. 25-3-1987 and it has completed six years in March 1993. He represented to this Commission that they had allocation of 2000 cylinders which they wanted to be increased by 1700 new gas connections to meet the waiting list.

8.32 This Commission forwarded his representation to the Indian Oil authorities on 16.6.93,

8.33 No reply has been received from them till 31-10-94.

8.34 In another case a person belonging to a Scheduled Caste was allotted a LPG dealership in September 1980 under SC category. The person complained in his representation about harassment to LPG distribution being Scheduled Caste. The case was taken up with Hindustan Petroleum Corporation Ltd. who replied that the complainant had indulged in gross irregularities and a penalty was imposed on him. They also clarified that he had unauthorisedly transferred the operation of dealership to a non-SC person by issuing an irrevocable power of attorney without approval of the Corporation. Under these circumstances this Commission was not in a position to intervene in the matter any further as there has been no violation of any safeguards provided for Scheduled Castes and Scheduled Tribes.

8.35 The Commission feels that the intention of the Government to provide opportunity to the SC/ST to establish

themselves in the field of business and trade through reservations in the granting of distributive agencies is not being fulfilled. There are many reasons for the same including the lack of information and knowledge among SC/ST and a lack of confidence.