



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, LoknayaK Bhawan
Khan Market, New Delhi-110 003

File No. 23/05/Himachal Pradesh/Review/2015/RU-I

Date: 21/08/2015

To

The Chief Secretary,
Govt. of Himachal Pradesh,
Secretariat,
Shimla – 171001
Fax: 0177 2621813.

Sub: Review and Monitoring of implementation of reservation Policy and Development Programmes for Scheduled Tribes being run in the District of Lahaul & Spiti, Himachal Pradesh.

Sir,

The report, on the visit of the National Commission for Scheduled Tribes to the District of Lahaul & Spiti, Himachal Pradesh to review the implementation of development programmes, reservation policy and SC & ST (POA) Act, 1989 in respect of STs is enclosed.

It is requested that the action taken on the points highlighted in the report from all the Departments concerned may be compiled and sent to the Commission by **11th September 2015**.

Yours faithfully,

(Pramod Chand)
Deputy Secretary

Copy forwarded for information and necessary action to:-

1. The Deputy Commissioner, District Lahaul & Spiti, Lahaul Block, Leh Manali Highway, Keylong, Himachal Pradesh 175132.
2. The Deputy Commissioner, DC Office Complex, Kinnaur at Reckong Peo, District Kinnaur, Himachal Pradesh.
3. The Additional Chief Secretary, PWD, Govt. of Himachal Pradesh Government Secretariat, Shimla – 171002 (Himachal Pradesh).
4. The Principal Secretary, Tribal Welfare Department, Govt. of Himachal Pradesh, Shimla - 171002.

5. The Secretary, Ministry of Water Resources, 626, M/o Water Resources, Shram Shakti Bhawan, Rafi Marg, New Delhi – 110001.
6. The Principal Secretary, Revenue Department, Govt. of Himachal Pradesh, Shimla - 171002.
7. The Secretary, Revenue Department, Govt. of Himachal Pradesh, Shimla - 171002
8. The Additional Chief Secretary, Department of Forest, Govt. of Himachal Pradesh, Shimla-171002
9. Principal Secretary, Ministry of Finance, Department of Economic Affairs North Block, New Delhi-110001.
10. The Secretary, Ministry of Tribal Affairs. Ground floor, 'D' wing, Shastri Bhawan, New Delhi-110001.
11. The Secretary, Ministry of Defence, Ministry of Defence, 101-A, South Block, New Delhi.
12. The Director General, Boarder Road Organisation, Seema Sadak Bhawan Ring Road Naraina, DelhiCantt, New Delhi 110010.
13. The Secretary, Department of Telecommunication, Ministry of Communications and IT Sanchar Bhawan 20, Ashoka Road, New Delhi 110001
14. The secretary, Ministry of Information and Broadcasting Room No 655, A Wing, Shastri Bhawan, New Delhi-110001.
15. Ministry of Tourism, Room No. 108, K-Block, Vikas Bhawan, I P. Estate, New Delhi.
16. The Secretary, Ministry of New and Renewable Energy, Block-14, CGO Complex, Lodhi Road, New Delhi-110 003, India.
17. Ministry of Ayush, Ayush Bhawan, B Block, GPO Complex, INA, New Delhi - 110 023.
18. The Chairman, Central Board of Direct Taxation, A R A Center, E 2 Jhandewalan Extension, New Delhi.
19. The Assistant Director, National Commission of Scheduled Tribes, Regional Office, Room No. 309, Nirman Sadan, CGO Complex, 52-A, Arera Hills, Bhopal – 462011.
20. SSA (NIC), NCST, New Delhi for uploading.



भारत सरकार

GOVERNMENT OF INDIA

राष्ट्रीय अनुसूचित जनजाति आयोग

NATIONAL COMMISSION FOR SCHEDULED TRIBES

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पत्रावली संख्या/File No. : 23/05/HP/Review/2015/RU-I

दिनांक /Date : 12/08/2015

Tour Report

Visit Report of National Commission for Scheduled Tribes (NCST) to Himachal State from 18-06-2015 to 26-06-2015 for field visits and district level meetings to review implementation of ST development programmes.

1.0 The Commission led by Dr. Rameshwar Oraon, Hon'ble Chairperson, accompanied by Shri Ravi Thakur, Hon'ble Vice-Chairperson, Dr. Shyam S. Agarwal, Secretary, NCST and Shri R.K.Dubey, Assistant Director, NCST, Regional office, Bhopal visited State of Himachal Pradesh from 18-6-2015 to 26-6-2015 as per the programme communicated to State Govt. vide Wireless message No. 25/05/HIMACHAL PRADESH/REVIEW/2014/RU-I dated 1-6-2015 for field visits and district level meetings to review status of development programmes in respect of STs in the State.

18-06-2015

2.0 Formal welcome and briefing NCST about various aspects of tribal development by Additional Secretary, Tribal Development Department, Govt. of Himachal Pradesh and other Senior officers of State.

The Commission reached Kalka Railway Station and proceeded for Shimla by road. It reached Shimla camp where Additional Secretary, Tribal Development Department and other senior officers of State Administration warmly welcomed the Commission. Thereafter, Additional Secretary, Tribal Development Department, Govt. of Himachal Pradesh briefed about general information related to State.

19-06-2015

2.1 Sitting with Chief Secretary (CS), Govt. of Himachal Pradesh and senior officers of other concerned departments on acquisition of land of tribals in village Madhgram, PO- Udaypur, District Lahaul and Spiti for construction of Tandi – Killar-Pangi road without paying compensation to them.

2.1.1 The Commission held a meeting with Additional Chief Secretary (ACS), Public Works Department (PWD), officers of Ministry of Defense, Govt. of India, Border Roads Organization and the petitioner Shri Sudarshan Thakur on representation made by him on

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issue of acquisition of land of tribals in village Madhgram, PO- Udaypur, District Lahaul and Spiti for construction of Tandi – Killar-Pangi road without paying compensation to them. List of participants is enclosed as Annexure- “A”.

2.1.2 At the outset, the Commission noted that the meeting was scheduled with C.S., Govt. of Himachal Pradesh who was not present in the meeting. Secretary, MoD had requested vide his D.O. letter dated 18-06-2015 to remain absent due to urgent commitments and nominated Director, MoD, SE (Civ), Border Roads Wing and representatives of BRO to attend the meeting on his behalf. The Commission observed that policy decisions are to be taken in this meeting and without presence of C.S., Govt. of Himachal Pradesh, it shall be difficult to implement them. ACS, PWD informed that the Chief Secretary has recently joined the office after recovery from illness and could not be present in the meeting. He assured that he will take care of the decisions taken in the meeting and there will be no problem in implementation of the decisions.

2.1.3 The Chairperson NCST recalled the direction given by the Commission in the sitting held in the Commission on 11-07-2013 wherein it was advised that both the authorities concerned should take final view on the matter, in consultation with their competent authorities, as to who would be making payment of compensation for land acquisition as per the Award dated 05-03-2010 and that final decision taken by Govt. of Himachal Pradesh, BRO, Ministry of defense should be reported to the Commission within 15 days. He regretted that despite a lapse of over 11 months, the decision regarding payment of compensation to the tribals has not been taken by both the parties.

2.1.4 The Additional Chief Secretary, Public works department, Govt. of Himachal Pradesh submitted the view of State Govt. and informed that this is a case of acquisition of seven Bigha (1.2 acre) land. He informed that the road was constructed by BRO way back during 1978 and it remained in their possession till 14-10-2007 when it was handed over to the State Government. This road is used and maintained by BRO/MoD since the beginning. Compensation to the tune of Rs 7,35,99,066.70/- was announced by the Land Acquisition Collector on 05-03-2010. The State Govt. has approved this award as well. The award stipulated that the amount would be placed at the disposal of the LAO within one month of the announcement of the Award for further payment to the petitioner and in case there is a delay, then the acquisition department would be liable to pay interest @ 15% per annum . This road was again returned to the BRO on 05-07-2011 and the handing/taking over report States that the compensation of Rs 7,16,81,292 /- would have to be paid by the GREF (BRO). He informed that the concerned LAO had not passed the award as per rules and the procedure was also not followed. Actually, lesser land has been acquired for construction of road than that mentioned in the Award. The Khasra numbers and the measurements of lands to be acquired are also not correct. The acquired land also includes half a Bigha of “Nautod” (Govt. Patta) land. The award has been passed without actual demarcation of land. If the proper survey of the land acquired for the construction of road is done, the amount of compensation will come down due to the above errors. The Award has lapsed since then.

2.1.5 The Additional Chief Secretary, Public works department, Govt. of Himachal Pradesh also submitted that the compensation should have been paid by the BRO/MoD in the year 1978 at the time of construction of road. As the land was not acquired for construction of road as per rules and the road was constructed by them without land acquisition and payment of compensation to the villagers, the BRO/MoD should come forward to correct their mistake

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and make payment to the State Govt. for releasing compensation to the villagers. Participating in the discussions, Secretary, NCST said that the BRO has admitted that no payment has been made to the villagers in lieu of their land at the time of construction of road or thereafter. He asked whether the State Govt. can reopen the Award after conveying the Award. The Additional Chief Secretary, Public works department submitted that there is a provision under section 24 of the Land Acquisition Act, 2013 that if the payment has not been made for acquisition of land in old cases, the payment can be made as per the new Act. He also said that as per rules, payment of interest and Solatium can be made from the date of notification under section 4 of the LA Act and not from the year 1978, as demanded by the petitioner.

2.1.6 Brigedier S.K. Kataria, CE, Project Deepak, admitted that the BRO had not paid any compensation to the petitioner villagers for their land at the time of road construction in this portion. He said that the matter of payment of compensation to the villagers is under consideration of the Ministry and it has sought certain clarifications on the proposal. He suggested to re-workout the cost of land jointly with the revenue officers. He pointed out that in the earlier award, the rate of land was ranging from Rs 17,000/- to 1,50,000/- per Bigha and the present circle rate at that place is Rs 15,00,000/- per Bigha. The land was acquired in 1978 and the rate of payment and the date from which payment has to be made, will have to be decided.

2.1.7 The petitioner submitted his statement as per representation and demanded that the compensation of land along with statutory benefits may be released to them as many years have passed after making the complaint and the same has not been settled by the authorities.

2.1.8 Chairperson, NCST observed that it was the responsibility of the State Govt. to make payment to the villagers whose land was acquired for the construction of road without their consent. The land is a subject of State and as per the constitutional provisions, it is the responsibility of the State to protect the tribals. It is duty bound to protect the life and property of its citizen. The State Govt. is free to demand the compensation, solatium and interest from BRP/MoD. In this case, the land of the tribals was taken without paying any compensation to them. For this, the State Govt. and the BRO are equally responsible. The State Govt. should pay the tribals from its pocket first and then demand the same from MoD with full justifications and the Ministry should also make payment to the State Govt., as is being done in other cases.

2.1.9 After detailed discussion, following decisions were taken in the meeting:

- (1) The survey of Private Khatadhari land acquired and actually taken for construction of road will be done by the Tahsildar by 30-06-2015.
- (2) A joint team of representatives of DC, SDM, Tahsildar and GREF will be formed to negotiate the price of land and the affected villagers will have option to choose compensation as per the LA Act of 1864 from the date of Award with interest and solatium or to receive compensation as per the new Act. Reference rate will not be below the circle rate. The State Govt. will see that it has legal competence to revise the Award. This exercise will be completed by 31-07-2015. The State Govt. will convey the amount of Award with relevant details to the BRO which will process the same and make payment after approval from the MoD.

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- (3) The Commission will review the progress made in this regard on 17-08-2015 in the next meeting.
The meeting ended with vote of thanks to the Chair.

(Action: ACS, PWD, Govt. of HP and Deputy Commissioner, Lahaul & Spiti)

2.2 Meeting with representatives of Tribal students Association:

The General Secretary and Chief Adviser of Tribal Students Association, Himachal Pradesh University, Shimla met the Commission at 12:00 noon and presented following demands before the Commission:

- (1) Immediate payment of post- matric scholarship to the ST students.
- (2) Construction of tribal girls hostel in the Himachal Pradesh University, Shimla, and
- (3) Appointment of teaching faculty in colleges of tribal areas in the State.

The Commission immediately took up the matter of payment of post- matric scholarship to the ST students with the concerned officers of MoTA who informed that the proposal was received late from the State Govt. and payment has already been released to the State Government. As far as Construction of tribal girls hostel in the Himachal Pradesh University, Shimla was concerned, the Additional Secretary, Tribal welfare Department informed that an amount of Rs 3.50 crores was released for this purpose and the hostel is already under construction. The Commission advised the State Govt. to give vast publicity to the construction of girl's hostel so that the tribal girls can be fully benefited. Regarding non-availability of teaching faculty in the colleges located in tribal areas of the State, the Additional Secretary, Tribal welfare Department admitted that the students of tribal area have to go outside for completing their education. He informed that under National Higher Education Campaign, the students are free to choose any subject in higher education course. Sometimes, teacher of a particular subject are not available in a particular subject. The Commission advised him to fill up the vacant posts of Teachers particularly in Science and Maths subjects.

(Action: Secretary, TWD, Govt. of HP)

20-06-2015

3.0 In the morning, the Commission left Shimla by road for Kinnaur district.

3.1 Meeting with Tribal Delegates at Bhaba Nagar, Kinnaur

Several Tribal delegates met the Commission in Bhaba Nagar rest house and appraised the Commission about several problems being faced by the Tribal community in the District and the State. Following information was shared with the Commission:

1. The Government of India has passed "The Scheduled Tribes and other Forest Dwellers (Recognition of Rights) Act, 2006" (hereinafter, FRA) to correct the Historical injustice meted out with the Tribals and this Act is applicable

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throughout the country except the State of Jammu & Kashmir. The Govt. of Himachal Pradesh directed the Deputy Commissioners of the Tribal Districts to implement the provisions of this Act on 14/03/2008. As per the provisions of this Act, holding of the Gram Sabha Meeting, training and formation of different level committees was also started and the Administration started receiving individual claims and community Rights claims. In Kinnaur District, 1370 individual and 54 community claims are pending with the District level committee and 1107 claims are pending with the District level committee. So far, no individual or community claims have been recognized in the State. The State Forest Department has decided the parameters for eligibility for forest rights whereas under section XII of this Act, it is only the Central Govt. which has powers regarding taking decision on eligibility of an individual or community.

2. In the year 2010-11, a PIL was filed in the Himachal Pradesh High Court regarding encroachment on forest land and the Hon'ble High Court vide its orders dated 06/04/2015 has directed that the encroachers who are having more than 10 bighas of encroached land may be dispossessed from the land and legal action be initiated against them. In follow up of this order, cases where registered against 132 persons in Kinnaur District. During the hearing in the High Court, the Additional Chief Secretary (Forest) and Principal Secretary (Revenue) belonging to the State Govt. appeared in the Court but they did not referred to section 4 (5) of the Forest Rights Act as a result of which the above order of the High Court was also made applicable on the Tribal areas whereas under this section, the persons in possession of the forest land cannot be dispossessed from that land till the disposal of their claims. The State level monitoring committee, in its Meeting held on 22/05/2013 to review the implementation of FRA, had decided to approach the High Court for obtaining the order in favour of the forest dwellers under section 4 (5) but so far the forest department has not take any action in this regard. Due to this in action on the part of State Govt., the High Court order dated 06/04/2015 became applicable on the Tribals who had encroached the forest land and were eligible for allotment of pattas under FRA.
3. In the year 1990, the Govt. of India had issued a circular wherein the States were advised to regularize the encroachment before the passing of Forest Conservation Act, 1980 but in Himachal Pradesh, particularly in Kinnaur District, no action was taken in this regard. Hence, the encroachments before 25/10/1980 i.e. the passing of this Act should be regularized in the State.
4. In the year 2002, the State Govt. made amendment in Himachal Pradesh Land Revenue Act, 1954 and added section 163 (A) wherein there was a provision of regularization of the encroachment. Related rules were framed in the year 2002 and applications were invited in form "A" but all the claims are pending till date. These claims should now be regularized under section 3 (1) (j) of FRA.
5. After implementation of Forest Conservation Act, 1980 the traditional right to obtain Govt. land in existence in the tribal areas known as "Nautod" was

stopped in the year 1996. Since 1996-97, 6,666 "Nautod" claims are pending in Kinnaur District alone. No "Nautod" land patta has been allotted so far in the District. All the "Nautod" land claims may be settled urgently.

6. There is decision of Hon'ble Supreme Court in the case of Iridium India Telecom Limited v/s Motorola decided on 05/01/2005 in which the Court has observed "It is well settled Law that in the event of the conflict between a special law and a general law, the special law must always prevail". However, in Himachal Pradesh, the special laws made to protect the Tribal community like FRA are being superseded by general laws of Revenue and Forest Department depriving the Tribal community from obtaining the benefits under the special laws.
7. The rules of Panchayat (Extension in Scheduled Areas) Act in HP were framed after the delay of 15 years and under Rule 9 (6) of PESA Rules, the Land Acquisition Officer has been empowered to overrule the decision of Gram Sabha after second consultation. This is against the intention of the Parliament which had passed the PESA Act.
8. The Hydro-electricity Projects being established in the District and the State are adversely effecting the environment of the Tribal area. The forests, wild life and the local population are facing severe threat in form of floods, avalanches and landslides. The tunnels of the Hydro Electricity Projects have made the mountains hollow resulting in landslides.
9. At the time of establishment of these projects, it was decided to provide 100 Units of electricity per household for 10 years but this was not followed. Moreover, after the commissioning of the project, surplus land should be returned to the villagers, which was not followed. In Nathpa - Jhakhdi project, payment of compensation was not uniform. In one village payment was made @ Rs. 2.40 Lakhs per bigha and in the other village payment was made @ Rs. 10 Lakhs per bigha. Due to meager payment, project affected families could not make their houses at the rehabilitation sites.
10. Many non tribals are purchasing land in tribal areas for establishing different projects but the land is not being used for establishing industries. Instead, plantation activities are being done on such land. In the land acquisition process, the Govt. land is provided to the entrepreneurs for a period of 40 years on lease whereas the tribal land belonging to the scheduled tribes is transferred permanently in the name of the concerned company. The State Govt. should protect the tribals and stop land alienation.
11. Apple is produced largely in the area which is the cash crop but the tribal farmers are not getting proper price for their produce. A fruit processing unit should be set up in the area.
12. Public sector banks do not come forward to give loans to the scheduled tribes in general because if they fail to repay the loan, the banks find it difficult to auction or sale it. The State Govt. should give Bank guarantee to facilitate

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lending of money to them by the Banks and in case of failure, the land should be taken by the Govt. for recovery.

13. Due to construction of large Hydro-electricity projects, there is a serious threat to the environment and the area comes under zone 4 in the seismic map of the country where landslides and avalanches are also prevalent. The tunnels constructed in these projects have adversely affected the environment and ecology of the area. These projects should adequately compensate the local community through various CSR initiatives.
14. In the interest of the national security and for tackling up with the natural calamities, the old Indo-tibetan road from Tapri to Shyaso Khadd should be opened for large vehicles urgently. Out of 120 Km length of this road, 70% has already been made motorable and remaining 30% road should also be constructed to facilitate movement of large vehicles through a special project and declared as NH-22 A. Similarly, the work of Shilti road should also be completed at the earliest and opened for traffic.
15. The Govt. of Himachal Pradesh has rationalized the Patwar circles in Kinnaur District and in Nichar Sub-division of the district, this rationalization was done many years ago but it was not done in Kalpa and Pooh Sub-divisions. Due to the adverse geographical conditions, the Patwaris are facing problem in providing services to the public and the public is also facing problems in the matters related to Revenue department. The posts of Nayab Tahsildar have also not been created in Kinnaur District and the public has to go the Tahsil offices for their revenue related work. Hence, the posts of Nayab Tahsildar should be created.
16. River Satluj is an international river which originates near the Mansarovar lake and enters in India near Shipkilla after a journey of 320 Kms. Agreements should be reached with China regarding distribution, usage and control of the waters of this river.
17. The District Headquarters of Kinnaur is Recong Peo and it has taken a shape of town which includes areas of Kothi, Talingi, Khawangi, Kalpa, Shudarang and Dooni Panchayats. There is no local body in Recong Peo and the present Special Area Development Agency cannot take place of an independent local body. There is no Sewer line and drainage system and the area is suffering from landslides. A local body should urgently be made to look after the civic amenities.

(Action: Govt. of India, Water Resources Ministry, Secretary, Revenue Department and TWD, Govt. of HP)

3.2 The Commission reached Recong Peo, the District headquarters of Kinnaur district in the evening, where the Deputy Commissioner and other officers of the district welcomed it. Thereafter, the Commission proceeded for Kalpa camp for stay.

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21-06-2015

4.1 Field visit of the Commission to village Rakchham in Kinnaur district

The Commission visited Rakchham village in the District for having feedback from the tribals about the status of implementation of various developmental activities run by the State Govt. This village has been declared a Nirmal Gram and has been honoured with Mahrishi Valmiki Puraskar. The village is having about 140 families and the total population is around 1100. There are 50 families living below poverty line and 176 Job cards have been issued to the beneficiary under MGNREGA. Following information was shared by the villagers with the Commission:

- (1) The village is connected with PMGSY road connecting it from Sangla. There is a school upto class XII and all the children are attending the school. The villagers themselves take care of cleanliness in the village and clean the roads of the village every fortnight. The Mahila Mandal ensures that all the children of school going age go to school. There is a branch of Bank in the village and the villagers are indulged in farming activities from May to September after which they are confined to their homes due to heavy snow fall.
- (2) The Commission was informed that the villagers are provided ration from the ration shops for whole year as it is difficult for the administration to carry food grains and other necessary items after snow fall when the passes connecting the area to the State Head quarters are closed. At present every family, irrespective of family size, is being provided 15 Kg. ration per card but it is not sufficient for the large families. During the discussion, it was revealed that the married sons of the family are not being treated as a separate family and their names, with their spouses and children continue in the same ration card against which 15 Kg. ration was being provided under PDS. The Commission advised that such families should be issued separate ration card so that they can get sufficient ration under PDS.
- (3) Many villagers informed that they shift to Nahan during the winter and only one or two family members stay in the village during winter to look after the cattle. Under MGNREGA, adult and married sons are being treated as separate family and up to three job cards exist for a joint family but this yard stick is not being implemented in issuance of ration card. Villagers demanded that under MGNREGA, they may be provided employment during the winter season when there is no work to do. They find it difficult to work under this scheme during summer as they have to work in their own fields and plantations. The Commission was informed that presently land development and water shed related works are being done. The payment under this scheme is often delayed and it is made after two months. It was also informed that the response is better from the female stalk of population under this scheme.
- (4) The Commission was also informed that the villagers produce Potato, Peas, Fapra and Okra during the summers. There is a Kisan Vigyan Kendra in the District and many villagers have been trained from there. The KVK has adopted many villages.

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- (5) During the discussion, it was informed that the Horticulture department has provided the assistance to the tribals in their farming activities by way of providing green houses for diversified agricultural produces. However, the villagers complained that due to heavy snow fall, the structure provided for the green house gets damaged as it could not bear the weight of the snow. Hence, there is a need of providing strong sheet and other structures which can bear the adverse climatic condition of the area as the structures of normal specification is not successful in the area. The villagers informed that they are being provided subsidy in the prices of Urea and demanded that the existing subsidy in MPK fertilizer popularly known as 12/32/16 may be increased. Presently no subsidy is being provided in TSO fertilizer and they are compelled to purchase it from open market at higher prices. They demanded Govt. subsidy should also be provided in this fertilizer.
- (6) The villagers informed that solar lights have been provided to them by the administration but in general, there is scarcity of electricity despite the fact that thousands of Mega watt electricity is being produced from the Hydro-electricity projects. The main reason of this shortage is that the electricity produced in these projects is supplied to the national grid and from there, it is sent back to the district. They suggested that the nearby Rukti Power House should be re started so that the power supply in the area is improved.
- (7) The villagers informed that after getting secondary education, the students of the village and the area go to Shimla, Chandigarh and other cities for Higher Education. They informed that many students including girls of the village have passed PMT and IIT exams and they are pursuing their education in various renowned Institutions in the Country.
- (8) There is difficulty in getting drinking water during the winter season when the water pipes are frozen due to very low temperature and snow fall. They have to melt the ice for obtaining water in the season.
- (9) The Commission was informed that there is one Doctor posted in the Primary Health Centre of the village. The posts of female health worker and Pharmacist are unfilled. Earlier, this was a Health sub-centre which was later upgraded to PHC. The villagers were mainly suffering from High Blood pressure but there is no instrument to check the blood pressure in the PHC.
- (10) The villagers informed that they have small pieces of land on which they cultivate cash crops. They are also in possession of forest land and they have preferred claims under forest rights Act. But so far they have not been provided forest rights by the administration. They demanded that they should be provided individual rights and community right under FRA.
- (11) The villagers also informed that earlier they were provided Timber Distribution Rights by the forest Department and they were allowed to cut two trees and use the timber for construction and repair of their houses. But now, the forest department is not providing timber distribution permits to them on the plea that they are offenders of forest encroachment despite the fact that they are eligible for regularization of the encroachment of forest land and other rights, as admissible under FRA.

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National Commission for Scheduled Tribes
भारत, सरकार/Govt. of India
नई दिल्ली/New Delhi

- (12) The Aanganwadi of the village is being run in the private building. The villagers demanded that an amount of Rs. 4.5 Lakhs may be provided for construction of permanent Aanganwadi building. The Deputy Commissioner, Kinnaur immediately agreed to the demand in principle.
- (13) The villagers informed that Kisan Credit Card (KCC) is not being issued to them and as per the procedure; they have to run here and there for obtaining KCC. The Banks do not prefer to issue KCC to the tribal whereas it is easier for general population to get the same. The main reason of this is that in case of failure to refund the loan, it is difficult for the Banks to recover the money as the land mortgaged with them cannot be transferred being a tribal land. They demanded simplification of the procedure in issuance of KCC. The State Govt. should consider giving Bank guarantee in this regard.

(Action: Secretary, TWD, Govt. of HP and Deputy Commissioner, Kinnaur)

4.2 District level review meeting at Reckong Peo, Kinnaur district.

In the beginning of the meeting, the Deputy Commissioner, Kinnaur welcomed the Commission. Officers of the district administration and the members of Tribal Advisory Council were also present in the meeting. A power point presentation was made by the Project Officer, ITDP depicting general and statistical information about the Kinnaur District. The Commission was informed that there are twelve districts in the State and Kinnaur became a district on 01/05/1960. Earlier it was a part of Mahasu district. The district is given the special status of tribal district as schedule V area under the Constitution of India. The District headquarter is located at Reckong Peo. The district is divided into three administrative Sub-divisions-Pooh, Kalpa and Nichar. It has five tehsils namely Pooh, Kalpa, Moorang, Sangla and Nichar and one sub-tehsil named Hangarang. The district has three developments blocks (Synonymous with Sub-divisions) and having 65 Panchayats. The district is bounded by Tibet and Utranchal on the East, Shimla district in South-West and Kullu & Lahaul and Spiti Districts in the North-West. The district has a mountainous topography ranging in altitude from 1600 meters to 6816 meters having steep valleys carved by streams and rivulets having their origin in the glaciated ridges. The district is famous for Kinner Kailash, a mountain sacred to Hindus.

The district remains extremely cold during the long winters from October to May due to high altitude and the Summer season is short from June to September. The lower part of the Satluj Valley and the Baspa Valley receives Monsoon Rains. The upper areas of these valleys and the lower reaches of Spiti Valley in Kinnaur fall in the Rain shadow area and these areas are considered to be Arid regions having climate similar to Tibet.

The district has a geographical area of 6401 Sq.km. and a population of 84,121 persons as per 2011 census. The male population is 46,249 and female population is 37,872. The density of population is 12 persons per Sq.km. and the sex ratio is 858 women per 1000 men. The district is having 71.8% Scheduled Tribe population comprising of mainly Kinnaura tribe.

After the power point presentation, detailed discussion was done on the basis of observations and feedback from the tribals during field visits of the Commission and reply to the questionnaire sent by the Commission to the district administration. Following issues were discussed in meeting in detail:

- (a) **Health** - The Commission was informed that there is one district Hospital, 3 Community Health Centres, 21 Primary Health Centres, 32 Health Sub-Centres and 27 AHCs in the district. There are one Ayurvedic and Homeopathic Hospitals each in the district. The Commission was informed that the sanctioned strength of Doctors including specialists in the district was 60 out of which 49 were filled. Similarly out of 35 posts of male Health works and 54 female Health workers, 26 and 31 posts were filled. Out of 30 posts of Pharmacist and 31 posts of Lab Technicians, only 7 & 6 posts were filled respectively. It was admitted that there is shortage of Doctors and specialists as they do not prefer to work under adverse climatic conditions. The Commission advised the State Govt. to depute the Doctors to these areas for short period up to two months so that their services are available in the remote tribal areas also. The Commission observed that there were complaints about non-availability of para medical staff in the dispensaries and Hospitals and advised the Deputy Commissioner to take effective steps in filling the vacant posts. When asked about the diseases in tribal areas of the district, the Commission was informed that mainly high blood pressure and TB cases are found in the local population. The main reason of High Blood Pressure is salted tea with butter.
- (b) **Sex Ratio** – The Commission noted with concern that the sex ratio in the district was only 858 women per 1000 men and observed that in general, the sex ratio in the tribal areas in the Country was more than 1000 women per 1000 men. The Deputy Commissioner explained the reason that in the census records, the Army personnel and para military forces placed in the district are also enumerated which has resulted in more number of males. He clarified that among the tribal community of the district, the sex ratio is 1066 women per thousand males.
- (c) **Special Central Assistance to TSP and BADP** – The Commission was informed that there is a receding trend in the allocation under SCA to TSP. Earlier, the district was allocated up to Rs. 7 Crore but now the State as a whole is being provided Rs. 4.70 Crores and the district is receiving only Rs. 1.33 Crores. It was informed that the amount received is fully utilized by the Administration. The Commission was also informed that due to adverse climatic condition, many developments works cannot be done from September to April and the administration gets only four to five months for undertaking these activities. The Commission advised that floating of tenders, work order and purchase orders could be issued during the winter months and the construction work may be started immediately after the roads are opened after removal of snow. Additional Secretary, Tribal Welfare Department, HP assured the Commission that the BADP funds will be authenticated in advance to the DCs so that there is no delay in completion of the scheme and the same shall be re appropriated in the TSP at a lateral stage.
- (d) **Horticulture** – The Commission also pointed out that during the field visits of the Commission, the villagers informed that the structures being provided for

construction of green houses to diversify the produces are of normal specification which cannot bear the weight of heavy snow fall in the region. The Commission advised that the Directorate of Horticulture should provide such structures which can bear the climatic condition of the district. The Commission also advised the administration to use the expertise of KVKs and Himachal Pradesh Agriculture University to increase the productivity, diversify the production and to raise income of the tribal community.

- (e) **Literacy & Education** – The Commission also inquired about the status of Literacy & education among the scheduled tribes in the district. The Commission was informed that general literacy in the district as per 2011 census was 81.74%. The male literacy was 85.17% and female literacy was 70.96%. Among the scheduled tribes, the literacy was 80.04% and the male literacy was 89.20% and the female literacy was 71.51%. The Commission observed that the general literacy and the literacy among STs were almost equal. However, there is a need to further improve the female literacy to bring it closure to their male counterparts. The Commission was informed that the percentage of enrollment at elementary level in the district in general category was 31.66% and among Scheduled Tribes, it was 39.37%. At the middle school level, it was 21.44% and 52.15% respectively. The information about dropout at different level was not provided to the Commission. The information about number of College Hostels and High School Hostels including number of boarders was not provided to the Commission. During the discussion, the Commission was informed that two hostels at Karchham and Sangla are closed from last 8 to 10 years in the district. The Commission noted that the information about number of students receiving pre-metric scholarship in the district has not been provided to the Commission. There is one EMRS in the district with 210 seats, 105 each for boys & girls. On inquiry, it was informed that 400 applicants had applied for admission in EMRS out of which 210 were selected. The Commission advised that keeping in view the demand of the local population, a proposal to convert the closed Hostels at Karchham and Sangla into EMRS may be considered by the State Govt.
- (f) **PDS** – The Commission noted that 15 kg of grains were being provided per family to the tribals but the definition of family was not according to the accepted norms. Joint family was being treated as one family contrary to the norms adopted under MGNREGA, where married adults were treated as separate family. The Commission noted that in Rakchham village, the average family size was 15 whereas in the district, it was only 4.9. The Commission suggested that married sons and their children should be treated as separate family and separate ration cards should be issued to them making them eligible to obtain 15 kg ration separately.
- (g) **Distribution of fertilizers** – The Commission discussed about the demands of tribal population for providing fertilizer subsidy and ensure availability of fertilizers in the tribal areas. It was informed that subsidy is being provided on Urea but no subsidy is being given in TSO. The Commission advised the State Govt. to ensure proper distribution of fertilizers with subsidy as per the demand of the tribals to promote Agricultural and Horticultural productions.

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- (h) **Electricity** – The Commission discussed the issue of power supply in the tribal areas. It was admitted that the electricity produced in the district through Hydro-electricity project is supplied to the national grid. The Deputy Commissioner informed that the Rukti power house is being repaired and the situation will improve within a year.
- (i) **Forest Rights Act** – The Commission noted with concern that FRA was not implemented so far in the State as well as district. The Commission was informed that this was due to some order of the High Court and technical issues relating to distribution of Nautod (Govt.) land and illegal forest encroachments. Moreover, the training under FRA is being provided by Panchayati Raj Department of the State and serious attempts are being taken to solve the issue and implement the FRA in letter and spirit. The Commission advised the administration to speed up the implementation of FRA and to restart the Timber Distribution Right to the tribals for construction and repair of their houses.

The members of the TAC present in the meeting also raised some issues in the meeting as given below:

- Priority in supply of electricity to the local population at subsidized rate.
- Payment of 1% funds received from the power projects to the affected Panchayats under Local Area Development Fund.
- Protection of deteriorating environment due to setting up of large Hydro-electricity projects.
- The tribals are being stopped from collecting sand from the river basin for construction of house by the NGT which is the customary right of the tribals which should be provided to them.
- The condition of roads including NH and ODRs should be improved and the BRO should be advised to open the passes as early as possible for movement of Goods & traffic.
- The scheduled tribes of the Himachal Pradesh are not being provided reservation in admission in educational institutions especially in Chandigarh which is against the rules as Chandigarh is a Union Territory where reservation policy of GoI is applicable.
- Forest Right Act is not being implemented in the State which is a serious matter.
- The funds under BADP should be raised for the district as it is a sensitive area having international border with China. The cost of construction in this area is much higher due to adverse Geographical and climatic condition.
- Poor BSNL connectivity in the district especially during winter season.

The Meeting ended with a vote of thanks to the chair.

(Action: Secretary, TWD, Govt. of HP and Deputy Commissioner, Kinnaur)

4.3 Discussion on implementation of Forest Rights Act in Kinnaur district.

In the evening the Commission held discussion with Additional Secretary, Tribal Development Department, Govt. of HP on implementation of FRA in the Districts. The Deputy Commissioner and other concerned officers of the State were also present in the

meeting. Shri R.S. Negi, Petitioner and other scheduled tribe delegates were also present. Following information was given to the Commission by the petitioner:

- I. Forest Rights Act is not being implemented in the district and the State. Altogether 1370 individual and 54 community claims were pending in the district under FRA. Out of this 1107 claims were pending at the village level committee for the last five years. No claims have been recognized so far in the district.
- II. The petitioner further informed that the Additional Chief Secretary, Department of Forests, Govt. of Himachal Pradesh has issued a letter dated 07-03-2009 where in the parameters of eligibility of forest rights were conveyed to the forest department officers and Forest Right Committees for implementation of this Act. As per this direction, the Govt. employees (Regular or Contractual), Businessmen, Traders, Trustees and Tax Payers have been debarred from obtaining Forest Rights Pattas. After this, the Officers of Forest Department stopped the Co-operation in implementation of this Act and strictly started following those parameters as a result office which all the activities related to the implementation of this Act and rules therein came to a complete halt and no progress was made in the implementation of this Act in last 5 years. As per section 12 of the FRA, only Central Govt. is empowered to issue any direction on the subject and not the State Govt.
- III. In the year 2011-12, a case regarding encroachment of forest land was filed in the High Court and the High Court has passed an order to get evicted the encroached land admeasuring above 10 Bighas and to take legal action against those encroachers. As a result, cases have been registered against 132 persons in Kinnaur District for alleged encroachment of the forest land. During the hearing of this case, Additional Chief Secretary, Department of Forests, Govt. of Himachal Pradesh and Principal Secretary, Department of Revenue, Govt. of Himachal Pradesh appeared in the High Court but they did not mentioned anything about section 4(5) of Forest Rights Act, 2006 applicable in the tribal areas of the State as a result of which the above order of High Court also became applicable on the tribal areas of the State where, a large number of FRA claims were pending without decision. As per above section of this Act, the occupants of forest land cannot be evicted from the land till the final disposal of the claim. Further, the State Level Monitoring Community, in its meeting dated 22-05-2013 had decided that the forest department will move to the High Court for obtaining relief for the FRA claimants from the above order of the High Court under section 4(5) of the FRA.
- IV. In the year 1990, the Govt. of India had issued a circular and issued direction to the State Govt. for regularizing the forest encroachments made prior to the date of implementation of Forest Conservation Act, 1980(25-10-1980) but no action was taken by the State Govt. to regularize such encroachments in the State and Kinnaur District. The claims of such persons are still valid and their claims should be regularized as per the above direction of the Union Govt.
- V. In the year 2002, the Govt. of Himachal Pradesh made amendment in Himachal Pradesh Land Revenue Act, 1954 and added section 163-A wherein there was provision of regularizing the encroachments and under this section, Himachal Pradesh (Regularization of encroachments) Rules, 2002 were framed. Applications were invited from the concerned for regularization of encroachments under these rules in Form- A but no action was taken for regularization of

encroachments under these rules. It is informed that these rules are under judicial review and till these rules are being reviewed or set aside by the court, the applications should be kept pending and the encroachment should not be evicted. As far as FRA is concerned, these claims should be considered as claims under FRA as under section 3(1) (j) of this Act, the rights vested under section 163 A of Himachal Pradesh Land Revenue Act, 1954 and Himachal Pradesh (Regularization of encroachments) Rules, 2002 are automatically applicable and such cases should be approved under FRA.

- VI. In the case of Odisha Mining Co-orporation versus Ministry of Environment and Forest and Others, the Supreme Court, in para 49 (V) of its judgment has elaborated section 4(5) of Forest Rights Act and clarified that the encroacher cannot be evicted from the land under his occupation till the disposal of his claim following the due procedure. In this judgment, the Hon'ble Supreme Court has directed to receive new claims under Forest Rights Act in the Niyamgiri area.
- VII. Similarly, on the instruction of Hon'ble Prime Minister, the Secretary, MoTA, vide his d.o. no. 23011/18/2015-FRA dated 28-04-2015 has advised the Chief Secretaries of the States to provide training to the concerned officers, employees and members of the committees for implementation of Forest Rights Act.
- VIII. After the enactment of Forest Conservation Act, 1980, the "Nautod rule" of allotment of Govt. land, which was in practice as traditional right in the tribal areas was stopped from the year 1996. Since 1996-97, altogether 6,666 cases of allotment of "Nautod land" are pending in Kinnaur District. On the demand of various social organizations to continue the "Nautod rule" under section (1)(j) and section (4)(7) of Forest Rights Act, The Governor of the State was pleased to restore the "Nautod rule" conditionally for a period of 2 years by a notification but the conditions mentioned in the said notification are complicated and impractical as a result of which not a single allotment of "Nautod land" has been made in the district even after a lapse of over 10 months. If the "Nautod land" had been allotted immediately after enactment of FRA, the cases of encroachment of forest land would not have occurred. Hence, all the pending cases of allotment of "Nautod land" should be decided favourably.

On behalf of the District Administration, The Commission was informed that the reason for delay in allotment of Forest Right Patta was that in most of the cases, there was no recommendation either from the Village Level Committee or the SDLC. The project officer, ITDP informed that in 409 cases of Pooh Sub-division, there was no recommendation from the Sub-division level committee. The Commission was not satisfied with the reply and opined that the Administration should take proactive role in implementation of FRA. The Commission desired that a time frame should be fixed for finalizing the things. After detailed discussion, following advice was given by the Commission to the district Administration and the State to settle the issue:

- 1) 415 cases, where the Sub-divisional committee has given its consent, will be finalized within a period of **two months** and 955 cases will be sent to the SDLC for reviewing the same. The Commission advised that these 955 cases should also be decided by SDLC in a time bound manner preferably by **December this year**, so that the purpose of this Act is not defeated.

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- 2) The Forest and Revenue Departments of the State will approach the High Court for obtaining relief for the FRA claimants from the above order of the High Court under section 4(5) of the FRA mentioned in Para III above.
- 3) If any clarification is required regarding eligibility of claimants under FRA referred in Para II above, the State will approach MoTA for guidance.

(Action: Additional Chief Secretary, Department of Forests, Principal Secretary, Department of Revenue, Govt. of Himachal Pradesh and DC, Kinnaur)

22-06-2015

5.0 The Commission left Kalpa for Recong Peo, Kinnaur district from where it proceeded for Jispa, Lahaul and Spiti District by helicopter and reached there at 11:15 A.M. The Deputy Commissioner, Lahaul and Spiti District and other officers of the district warmly welcomed the Commission.

5.1 **Meeting with tribal delegates at Jispa.**

The Commission held a meeting with local tribal population at Jispa, Lahaul & Spiti where following issues were raised before the Commission:

- (1) The Lahaul & Spiti, Kinnaur and Bharmaur and Pangi Sub-divisions of Chamba districts remain cut off from other parts of the Country for 7 to 8 months in a year due to heavy snow fall. The Culture of this region is very rich and for the protection and conservation of culture, radio station should be opened for this area of the State. Community radio and FM radio should also be started in this area. A Doordarshan Kendra should also be opened in Keylong.
- (2) There is no arrangement of Teaching in the local Bhoti language in the schools which is spoken by the local population. This language should be promoted and recognized by Govt. of India in VIIIth Schedule of the Constitution.
- (3) The Students pursuing Poorva Madhyama and Uttar Madhyama from the State Sanskrit University are not admitted in Jammu & Shimla University for Higher Education as these Universities do not recognized these courses.
- (4) The Tibetan system of Medicine called Soa Riya (Amchi) has been recognized by Aayush Department of Govt. of India but this system of Medicines is not being promoted by the Central & State Govt.
- (5) Forest Rights Pattas are not being distributed in the State and the High Court has ordered to dispossess the encroachers from the land under their possession. Action is being taken against the old encroachers by the State who should have been given FRA Pattas. Nautod land is also not being allotted by the State Govt. to the tribals.
- (6) There is shortage of Doctors and para-medical staff in the district.
- (7) Adequate BSNL connectivity and satellite phone facility should be provided for the Lahaul & Spiti district as the present arrangement collapses during the winter season.
- (8) R&R Policy should be properly implemented at the time of construction of Dams and other developmental projects in the districts. The Jispa Dam should not be constructed as the tribals will be adversely affected.

- (9) The Yote village was badly affected due to avalanches and the Panchayat had demanded to shift the village at a safer place. The villagers had selected the new location and the administration may be asked to allot the land to the villagers
- (10) The BRO should be asked to improve and open the roads by granting sufficient funds.
- (11) The Border with the State of J&K has not been demarcated and the residents of bordering areas of Himachal Pradesh are being harassed by the Police Officers of neighbouring State.

After the meeting, the Commission left for Keylong, the District Head Quarters of Lahaul and Spiti District.

(Action: Concerned Ministry of Govt. of India, Secretary, TWD Govt. of Himachal Pradesh and DC, Lahaul & Spiti)

5.2 Meeting with delegation of tribals in Keylong.

The Commission held a meeting with local tribal population at Keylong, the District headquarters of Lahaul & Spiti, where following issues were raised before the Commission:

- (1) Exemption of Income Tax for the Lahaul & Spiti, Kinnaur and Bharmaur and Pangi Sub-divisions of Chamba districts of the State like the North-East region and Leh-Ladakh area of J&K State due to Geographical Isolation and remoteness.
- (2) Exemption of Excise Tax, Sales Tax (VAT) and Luxury Tax for the above areas.

(Action: CBDT and Ministry of Finance, Govt. of India)

- (3) Special Budget for Helicopter service in Lahaul & Spiti during the winter season when the passes are closed due to heavy snow fall.
- (4) Upgradation of BSNL service from the present 8 MB to 32 MB to provide the uninterrupted services throughout the year.
- (5) Special Quota for recruitment in Defense services and para-military forces for un-employed Youth of the tribal areas of the State.
- (6) Proper maintenance and improvement of roads in the State.
- (7) Special incentives for medical specialist during their posting in the tribal areas of the State.
- (8) Installation of FM transmitter in Lahaul & Spiti.
- (9) Opening of Defense Airport for Civil & Defense purposes.

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(Action: Secretary, MoTA, Home, MoD, Telecommunication, Govt. of India and Secretary, TWD, Govt. of HP)

23-06-2015

6.0 Field visits of the Commission in Lahaul and Spiti District.

The Commission visited many villages in the district and interacted with the local population. Following places were visited throughout the day and following demands were made/information was shared by the local population with the Commission:

6.1 Visit to Shashur Gompa:

The Commission visited Shashur Gompa and met the villagers and discussed various issues related to their development and problems being faced by them in day to day life. They informed the Commission about their following problems:

- The Ministry of Tourism should promote the tourism in Himachal Pradesh by starting Buddhist circuit as done for UP and Bihar.
- Construction of roads up to the Gompas and Monasteries as they are integral part of the local life.
- Improvement in BSNL services.
- Improvement and extension of Doordarshan in the district.
- Conservation of traditional tribal masks by the State and Central Govt.
- Supply of drinking water in the Gompa as the pipes are damaged during winter.
- Promotion of Thangka painting by the Monasteries using the services of expert Lamas in the schools of the area.

(Action: Ministry of Tourism, I&B, Telecommunication, Govt. of India and DC, Lahaul & Spiti)

6.2 Visit to Malang Village

The local tribals met the Commission during its visit to the Malang Village and informed the Commission about their following problems:

- The rate of interest on Education loan for the tribals should be reduced from 10% to 7% to promote education among tribals .
- Improvement in BSNL services by providing 32 MB connectivity against present 08 MB connectivity.
- Providing Helicopter service during the winter season from the State funds.
- Repairing of water channel (Kuhls) for irrigation in Thandi Panchayat.
- Distribution of solar light to the tribals in the Tribal districts under TSP which is presently being provided to the scheduled castes by the State under SCSP.

(Action: Ministry of Telecommunication, Govt. of India, Secretary TWD, Govt. of HP and DC, Lahaul & Spiti)

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6.3 Visit to Govt. Senior Middle School, Malang

The Principal of the school welcomed the Commission. The Commission was informed that this school is located in the Malang village which is a tribal village. There are classes up to class VII and 27 students are pursuing their education in the school. There are 16 Teachers in the School and all the children of the school going age in the village are enrolled in the school. This School was established in the year 1960 and upgraded to High School in the year 1974 and to senior secondary school in year 1990. Many top bureaucrats of the State have passed out from this school. The students of this school presented cultural programme on the occasion.

6.4 Visit to Sunnam Village

The Commission visited Sunnam Village and met the tribal villagers who informed the Commission about their following problems:

- A tribal villager in the village has established green house and produces capsicum. The total cost of the green house was reported to be about Rs. 84,000/- out of which Rs. 71,400/- was provided as assistance from the Horticulture Department and the contribution of the villager was around Rs. 12000/-. The Commission advised the district administration to promote such activities in other villages also and form society for marketing of their produces. The help of KVK and Agricultural University for diversification of crops and enhancement of production may also be taken for the purpose.
- The water channel (Kuhls) of the village used for irrigation is broken. The repair work should urgently be completed.
- The road connecting the village from the District headquarters should be repaired. Other roads in the district also require re-construction and repairing.
- The subjects teachers of Chemistry and Mathematics are not appointed in the schools in the tribal areas and the students are compelled to study Arts and Commerce.
- There is no single specialist Doctor in the whole district. Many posts of MBBS Doctors in the Hospitals and Dispensaries of the district are lying vacant.

(Action: DC, Lahaul & Spiti)

6.5 Visit to Tandi Village

The local tribals met the Commission at Tandi Village and informed the Commission about their following problems:

- The water has to be lifted to Sunnam village for water supply in Tandi and Sunnam villages. Water tank has to be constructed in Sunnam but the irrigation and Public Works Department is not taking the matter seriously. The present water tank of Tandi village is leaking and the water is not potable. The Deputy Commissioner present with the Commission in the village directed the Executive Engineer to take immediate efforts for solving this problem.
- The water channel (Kuhls) used for irrigation in the village has damaged and the crops are drying up without water. The irrigation and Public Works Department has made an estimate for repairing but the work has not been started so far.

- The veterinary dispensary in the village was opened about 10 years ago but there is not Pharmacist in the dispensary and it is being run with the help of one Group "D" employee.
- The village is situated at a place where Chandra and Bhaga rivers meet together and is treated as a holy place. Many rituals including last rituals are done at this place but the road connecting the village and the cemetery has not been constructed so far.

(Action: DC, Lahaul & Spiti)

6.6 District level review meeting at DC office, Keylong, Lahaul and Spiti District.

In the beginning of the meeting, the Deputy Commissioner, Lahaul and Spiti welcomed the Commission. Officers of the district administration, GREF (BRO) and the members of Tribal Advisory Council were also present in the meeting. Hon'ble Chairperson, NCST informed the participants about the constitutional provisions for protection and welfare of Scheduled Tribes and the role of the Commission in safeguarding and monitoring their interests. Thereafter, a power point presentation was made by the District Administration depicting general and statistical information about the Lahaul and Spiti District. The Commission was informed that the district is lying on the Indo-Tibetan border and is characterized by arid mountainous landscape, fed by the Twin Rivers of Chandra and Bhaga which later join to form Chandrabhaga (Chenab). The Lahaul Valley is enclosed by the Greater Himalayas on the north, Pirpanjal on the south and Spiti- Chandra water shed on the East. The District is approached by road from 3 directions viz. from Shimla on the Indo-Tibet road via Kinnaur, from Manali over Rohtang pass and from Zaskar and Ladakh over Shingo La and Baralacha La. The area of the district is 13,833 Sq. Kms and the total population is 31,528 persons as per 2011 census. The District headquarter is Keylong and there are 3 Sub-divisions in the district namely Keylong, Kaza and Udaipur. There are 2 tahsil namely Keylong and Kaza, 2 developmental blocks namely Lahaul and Spiti and 1 sub tahsil namely Udaipur. There are 2 ITDPs namely Lahaul and Spiti in the district and the district is given the special status of tribal district as schedule V area under the Constitution of India.

In the distant past, Lahaul had been changing hands between the rulers of Ladakh and Kullu. In 1840 A.D, Maharaja Ranjit Singh took over Lahaul and Kullu and ruled over the region till 1846 when Lahaul came under the British rule and formed Kullu Sub-division of Kangra district and was administered by the local Jagirdars and Thakurs. In 1941, a separate sub-tahsil comprising Lahaul and Spiti was formed. It became a district in June 1960 with the District Headquarters at Keylong.

The district remains extremely cold during the long winters from October to May due to high altitude and the Summer season is short from June to September. Hinduism and Buddhism are the main religion professed by the population and Manchad Dialects and Bhoti are the main languages spoken in the district. The District Administration informed about several problems and constraints related to implementation of various development activities in the district, as given below:

- Limited working season due to heavy snow fall resulting in delay in completion of works and higher costs of construction.

- ii) High maintenance cost of roads and irrigation channels due to damages caused by rain, snow, falling of boulders and avalanches.
- iii) The high per unit cost of construction.
- iv) Non-availability of skilled and semi-skilled labour.
- v) Expensive transportation due to inhospitable altitude of the district.
- vi) Poor road, telephone and internet connectivity.
- vii) Lack of dedicated air ambulance during winter season.
- viii) National Green tribunal judgment imposing restriction on movement of vehicles through Rohtang Pass adversely affecting tourism.

After the power point presentation, detailed discussion was done on the basis of observations and feedback from the tribals during field visits of the Commission and reply to the questionnaire sent to the Commission by the district administration. Following issue were discussed in meeting in detail:

- (a) **Education** – The Commission noted that there were 267 schools in the district but only 140 students were receiving pre-matric Scholarship and sought clarification from the district authorities. The Commission was informed that there is income ceiling of Rs 1 lacs per annum and condition of obtaining 50% marks for being eligible for pre-metric Scholarship. It was also informed that the students of class 6th to 8th are not provided this scholarship though 100% reimbursement is made by the MoTA against the expenditure made by the State Govt. in this regard. The Commission directed the District Administration to provide a copy of the instruction issued by the State Govt. to see that it is in parity with the instruction issued by the MoTA on the subject.

The Commission was informed that there are 8 hostels in the district out of which three are in Lahaul Sub-division and 5 are in Spiti. There is an income criterion of Rs. 30,000 /- per annum for admission in these hostels and Rs. 1,580 /- per month is spent on each boarder in Spiti. The whole expenditure is met from the State Govt. funds under TSP. The Commission advised to relax the income criteria of Rs. 30,000/- per annum and enhance it to Rs. 1 lacs per annum so that the hostels do not remain vacant and more tribal students are benefited. Further, the necessity of obtaining 50% marks for becoming eligible for pre-metric Scholarship was also questioned by the Commission. The Commission also brought to the notice of Deputy Commissioner, the problem narrated by the local tribals in construction of Senior Secondary School building in Gondhra village due to non-availability of land. Additional Secretary, Tribal Development Department of the State advised the Deputy Commissioner to provide him a copy of the proposal so that funds to purchase land for construction of the school building can be made available.

The Commission also discussed about the enrollment of the students in the schools and observed that it was 100% at elementary level. The percentage of children attending middle school was also 100% with no dropout. The dropout at high school level was 10% in General category and 1% in ST category. The Commission advised that to check the accuracy of the data of enrollment. One or two villages can be chosen and the enrollment data may be checked with the records of births taken place in the village.

The Commission also desired to know about the availability of teachers, especially Science teachers, in the schools located in the different parts of district. The Commission was informed that Science is taught up to class 10th as one of the subject and Arts, Science and Commerce streams are separated after the student passes class 10th and Science Teachers of Science subjects and Maths are posted in the Senior Secondary School. As far as the posts of Science Teachers for classes up to 10th are concerned, out of 20 posts, 2 were reported to be vacant. At Senior Secondary level, there is about 15% shortage.

The Commission inquired about the availability of toilets for boys and girls in the schools. The Commission was informed that in the Lahaul District, Satluj Jal Vidyut Nigam (SJVN) has provided Rs 3.50 crores under CSR for construction of toilets. 32 toilets will be constructed at a unit cost of Rs. 1,22,500/-. The Vice Chairperson of the Commission informed that the company itself has surveyed and decided to construct the toilets and the schools were not consulted about the place where the toilets should be constructed. The company is constructing the toilets even on the private land. The Commission advised the Deputy Commissioner to review this issue so that money is not wasted.

(Action: Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

- (b) **Health** - The Commission was informed that there is one district Hospital, 3 Community Health Centres, 16 Primary Health Centres, 36 Health Sub-Centres and 21 Ayurvedic Health Centres in the district. Besides above, 5 civil dispensaries also exist in Darcha, Phura, Kibber, Lossar and Hansa. The Commission inquired about the availability of Doctors and Paramedical staff in the district. It was informed that the sanctioned strength of Doctors including specialists in the district was 48 out of which 28 were filled. Out of the above 48 Doctors, there are 7 posts of specialists but there is no specialists working at present. Similarly, out of 8 posts of medical Officers (Dental), only 4 are filled up and remaining 4 are vacant. There is no lady Doctor in the district and the patients have to rush out in case of emergencies. During the discussions, it was also informed that many posts of Pharmacists, Lab Technicians and Health workers were also vacant. The Deputy Commissioner informed that the Doctors are appointed through walk-in-interview and paid additional amount of Rs 25,000/- but they don't prefer to work under such adverse climatic conditions. The Commission advised the State Govt. to depute the Doctors to these areas for short period up to two months so that their services are available in the remote tribal areas also. The Govt. may take bonds from PG students for serving in tribal area for at least one year. Several other incentives may also be provided to the Doctors serving in tribal area. The Commission suggested that there were demands for exemption in income tax to the Doctors and other employees posted in tribal areas of the State similar to north-east region of the country and it should be considered sympathetically. When asked about the diseases in tribal areas of the district, the Commission was informed that mainly high blood pressure and TB cases are found in the local population. There are cases of Hepatitis reported in Spiti Sub-division. The cases of Osteoporosis are also found in the district for which Vitamin D tablets are distributed. The main reason of High Blood Pressure is

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consumption of salted tea with butter. The Commission observed that there were complaints about non-availability of Doctors and Para-medical staff in the dispensaries and Hospitals during the field visit of the Commission and advised the Deputy Commissioner to take effective steps in filling the vacant posts. The sex ratio in the district was reported to be 1013 women per 1000 men, which was convincing.

(Action: Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

- (c) **Roads** – The Commission was informed that the National Highway is constructed and maintained by GREF under BRO, Ministry of Defense. From Manali to Sarchu, 222 Kms. of road is with GREF. Out of this 150 Kms. road is black topped and 72 kms. road is yet to be made black topped. The officers of GREF informed that the budget for this purpose is provided by MoD and with the available budget and infrastructure; every effort is taken to open the passes by removing the snow and to make the roads motorable. It was noticed that GREF is making only 3-4 Kms. road per year and felt that more funds and machineries should be made available to the GREF for construction and maintenance of roads in this hilly bordering area where the cost of construction is much higher.

The Commission also inquired about the condition of State roads and other roads. The Commission was informed that total out of 386 Kms. roads, 143 Kms. roads is Black Topped and 243 Kms. is Kuchcha road. The Commission desired to know about the plans and targets for construction of roads. The Commission was informed that the DPR has been made and it is proposed to construct 13 Kms. of Black Topped road but funds are not available. The Commission noted that the funds made available were also not utilized due to adverse climatic condition and advised the Administration to utilize the winter season for all other procedural requirements and start the construction and maintenance work immediately after the passes are opened. The Commission was informed that all the villages having population of 250 or above have been connected with single roads under PMGSY. There is 240 Kms. village roads in the district.

The Commission noted that for construction and up keep of roads, the funds are a major constraint in the district and advised the State Govt. that a special case may be made to demand funds from Central Government for this purpose as it is a border area and rapid infrastructure development has taken place on other side of the border.

(Action: BRO, MoD, Govt. of India, Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

- (d) **Telecommunication** – The Deputy Commissioner informed the Commission that the telephone and internet services in the district are in bad shape as a result of which all the Govt. department as well as public in general are facing a lot of difficulty in carrying out their day to day activities as the district remains totally cut off for a period of over 6 months due to heavy snow fall and other vagaries of weather. The banking services are also hit due to this reason and the public makes complaint in this regard. He has discussed the matter with the local BSNL officer who has brought to the notice following situation:

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- 1) As far as the telecom services of Lahaul & Spiti are concerned, the main communication link are Optical Fiber Cable along BRO road and all the services of BSNL i.e. land line, Mobile, Broad band, WLL, Wi-Max, Lease lines of different State offices and Banks and 3G are working on the OFC. The work of road widening is in progress by the BRO due to which most of the area of O.F. Cable, which was underground, got open and became vulnerable for breakage.
- 2) In case of Optical fiber cable failure, there is an alternate media of Satellite which has a capacity of only 8 Mbs and can support only two services land line and mobile voice service. Moreover, at the time of installation of the Satellite Terminal, it was sufficient for communication services in the area due to less traffic but with times, the new services like WLL, 3G WiMAX and Broad band have been added and the traffic has also increased many folds. Therefore, the link is not sufficient for the current communication traffic requirements. So, to maintain the quality and continuous connectivity, the capacity of Satellite is required to be increased from 8Mbs to at least 34 Mbs.
- 3) Also due to climatic and geographical conditions of the area interruption free communication services are not possible on Optical Fiber Cable only; because in the winter season if the OFC break down takes place, it is possible to repair only after the roads are open. In that case, only satellite link will be available that is why it is required for proper communication that the satellite media should be enhanced in the interest of public of tribal area for their communication with rest of the country.

During the discussion the Commission was informed that the Deputy Commissioner has written a letter to the BSNL authorities on the above subject. It was also informed that heavy spectrum charges are taken by BSNL and it should take care of the needs of the tribal area bordering China under CSR funds. The Deputy Commissioner requested the Commission to take up the matter with BSNL and Department of Telecommunications, Govt. of India to sort out the issue.

(Action: Ministry of Telecommunication, Govt. of India and BSNL)

- (e) **Agriculture and Horticulture** – The Commission was informed that the local tribals have diverted to production of peas, potatoes and apple plantation for more earning. The Commission pointed out that during the field visit of the Commission, one farmer was seen producing capsicum in the green house constructed with the assistance of Horticulture Department and the Commission was impressed with such efforts. The Commission advised the district Administration and the State Govt. to play a catalytic role in promoting such efforts of the local farmers and suggested to involve more farmers by forming Horticulture cluster of many farmers producing different types of flowers, fruits and exotic vegetables. This will not only reduce the cost of production but also be economically viable. Moreover, the producers will be able to access the market collectively saving time and manpower. The Commission advised that the Department of Agriculture and Horticulture of the State should use the expertise of KVKs and Himachal Pradesh Agriculture University to increase the productivity, diversify the production and to raise income of the tribal community. Assistance may also be taken from National Horticulture Mission in this regard.

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The demands for supply of power trailers and sprinklers should also be fulfilled on priority basis.

- (f) **PDS** – The Commission was informed that 5236 family Ration card were issued to the families 3 years ago and presently these cards are being digitized. Under PDS, 15 Kg. of rice and 20 Kg. of wheat were being provided per family to the APL families. Similarly, 35 Kg. Ration is being provided to the BPL families. National Food Security Act is implemented in the State with effect from the month of September, 2014. The Commission noted that the definition of family was not according to the accepted norms. Joint family was being treated as one family contrary to the norms adopted under MGNREGA, where married adults were treated as separate family. The Commission suggested that married sons and their children should be treated as separate family and separate ration cards should be issued to them making them eligible to obtain 15 Kg. ration separately. As the Panchayats are preparing Ration Cards, the employees concerned should be trained on the subject.

(Action: Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

- (g) **Electricity** – The Commission discussed the issue of power supply in the tribal areas. It was informed that considering census village as a unit, 100% villages have been electrified. Efforts are being taken to provide electric connection to each household. BPL families are being provided electric connection under RGGVY. It was admitted that during the winter season, the grid supply totally collapses for 2-3 months. Electric supply in Spiti area of the district was also not regular. It was brought to the notice of the Commission that 2400 solar power street lights were being sanctioned last year under SCSP and demanded that similar scheme may be implemented for the tribal areas under TSP. If 2000 such lights are sanctioned for tribal areas as a special case, the situation will improve. The Commission opened that Special projects like Power Generation Project in Leh area of J&K should be started for Lahaul & Spiti District also and the matter should be taken up with Secretary, MNRE, Govt. of India in this regard.
(Action: Secretary, MNRE, Govt. of India, Secretary TWD, Govt. of HP and DC, Lahaul & Spiti)

- (h) **Forest Rights Act** – During the discussion, the DFO informed that Forest Rights Committees were formed in the district for each revenue village and many individual claims were received in the district. However, these claimants were not treated as eligible for Forest Rights as the fire wood and Grass Rights in the district were already settled. No tribal or other forest dweller is dependent on the forest in the district for livelihood which is a condition for providing Forest Rights. Dissatisfied with the above statement, the Commission sought detailed information about the number of villages, number of FRCs constituted in the district, number of individual claims received and their status. The Commission was informed that there are 521 revenue villages in the district out of which 281 are habited and 240 are inhabited. Total 165 FRCs have been formed in the district. It was further informed that 1593 individual claims were filed out of which only 7 Pattas were accepted by the DLCs and Pattas issued. Out of 1593 claims, 1087 were rejected at Gram Sabha level as necessary Codal formalities

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regarding claims under FRA, 2006 were not completed by the FRCs. Another 359 claims were returned back to the applicants by the concerned FRCs as they were incomplete claims. 71 cases were rejected by SDLCs under chapter 1(2) (C) because claimants were not dependent on forest for livelihood. It was also informed that 69 claims were pending at Gram Sabha level and necessary action is being taken for further submission to SDLCs. As far as community claims are concerned, 194 cases were filed out of which 8 were pending at Gram Sabha level and 95 were pending at SDLCs level. A total number of 40 community claims were rejected by the Gram Sabha and 6 cases were returned to the applicants by the FRCs as the claims were incomplete. It was also informed that 23 cases have been received from the concerned SDLCs and NOCs under FRA, 2006 have been issued in favour of concerned user agencies as per the recommendation of concerned FRCs, Gram Sabhas and SDLCs by the Deputy Commissioner. The Commission noted that the training to the members of FRCs of the village and SDLCs is provided by Panchayati Raj Department of the State and there is a necessity to speed up the training process as the officers and staff needs to be educated on various aspects of FRA. The Commission noted with concern that FRA was not implemented so far in the State as well as district. The Commission was informed that this was due to an order of the High Court and technical issues relating to distribution of Nautod (Govt.) land and illegal forest encroachments. However, the Additional Secretary, Tribal Welfare Department, Govt. of Himachal Pradesh made it clear to the district officials that FRA is superior to all other Acts and rules if there is any difference of expression in FRA and other rules. The Commission advised the administration to speed up the implementation of FRA by issuing instructions from upwards in the Administration.

- (i) **Allocation and Expenditure under Tribal Sub-plan, Special Central Assistance and utilization of funds under BADP-** The Commission noted that an amount of Rs. 2698.53 lacs was allocated under TSP to Lahaul and the entire amount was spent. An amount of Rs. 95.27 lacs was provided as SCA and full amount was spent. Similarly, in Spiti, an amount of Rs. 2397.85 lacs was allocated under TSP out of which 2350.34 lacs was spent. An amount of Rs. 84.69 lacs was provided as SCA out of which 84.57 lacs were spent. The Commission found it satisfactory. The Commission was convinced to see that 9% funds were provided by the State Govt. under TSP which was over and above the proportion of about 5% tribal population of State. However, the Commission advised that there was a need to convey advance approval of funds under BADP by the State Govt. so that the schemes undertaken could be immediately started after opening of the passes. Additional Secretary, TWD agreed to it and assured that instructions will be issue in this regard.

(Action: Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

The Meeting ended with a vote of thanks to the chair.

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24-06-2015

7.0 The Commission left Keylong in the morning for Manali via Rohatang pass by road and met tribal delegates at Sissu and Koksar to know about their problems.

7.1 Meeting with tribal delegates at Sissu.

The local tribals met the Commission at Sissu rest house and demanded solution of following problems faced by them in the village and the area:

- There is a problem of BSNL connectivity in the area and it is not possible for the villagers to contact their relatives living outside in other parts of the State and the Country. The situation worsens in the winter season when the area is cut off from the other parts of the Country due to heavy snow fall.
- There is no road from the village up to Keylong. It is under BRO and it has to construct and maintain the road. This matter should be taken up with the Ministry of Defense as it is a border area.
- The Agricultural Department of the State is not providing sprinklers for irrigation farmers due to lack of budget. The Tribals have submitted their applications two years ago but so far no action has been taken by the Department. More power trailers and Polly houses should be provided to the tribals by the agriculture and horticulture departments of the districts.
- Timber is not been received as per requirement from the forest department for construction and repairing of houses. TD norms should be amended so that per family entitlement of trees is increased.
- There is no Doctor in the Gondla PHC. There is no mobile van either. The district administration should post a Doctor in the PHC urgently.
- FRA Pattas have not been distributed in the State which is a serious matter.

7.2 Meeting with tribal delegates at Koksar.

The local tribals met the Commission at Koksar rest house and informed the Commission about their following problems:

- The BSNL connectivity in the village and the district is very poor. All the villages of the District should be connected through all season connectivity and satellite phone services should also be provided.
- The tribals of the area should be provided solar street lights under TSP.
- Financial assistance should be provided for construction work in Mahila Mandal Bhawan.

(Action: Secretary, TWD, Govt. of HP and DC, Lahaul & Spiti)

The Commission reached Manali in the evening.

25-06-2015

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8.0 The Commission left Manali for Kullu by road via Naggar and Patlikuhl and reached Kullu in the afternoon where the Deputy Commissioner, Kullu district welcomed the Commission. The Commission visited a library setup by the district Administration and praised the efforts of the Deputy Commissioner in this regard.

8.1 Visit to Bhutti Weavers Co-operative Society Limited, Bhutti Colony, Kullu, Himachal Pradesh

The Commission visited the complex of Bhutti Weavers Co-operative Society Limited, Bhutti Colony, Himachal Pradesh in the afternoon and observed the activities of the Society. The management of the Society welcomed the Commission. A group of twelve progressive weavers of Bhutti village had joined hands in 1944 to form a cooperative society and raised Rs. 12 as a share capital. They started weaving of the traditional Pattus & Dhorus for their livelihood. In 1955, Shri Ved Ram Thakur joined the society as a member and was elected President of the society in 1956. He transformed the society with his managerial and professional skills and presently "Bhuttico" is the leader in the shawls industries. The society has 451 members as on date with paid up share capital of Rs. 83 Lakhs and the annual sale during the year 2014-15 was Rs. 1252 Lakhs. NABARD has extended financial support to the society under producer organization development funds. The Commission was informed that out of 451 members, 08 belong to ST category and one of the members in the Board of Directors belongs to ST category. The Commission appreciated the efforts of Shri Satya Prakash Thakur, the present President of the society in extension of the activities of the society throughout the Country.

In the evening, the Commission reached HPSEB guest house near Bhuntar Airport for night stay.

26-06-2015

At 08:10 A.M, the Commission left Kullu for Delhi by air and reached there at 10:00 hrs. in the morning.

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