

**Agenda Note**

**Sub: Consideration of amendments in SCs and STs (Prevention of Atrocities) Rules, 1995 – Reference from the M/o SJ&E thru MTA.**

**1. Proposal in brief :**

A proposal has been received from Ministry of Social Justice and Empowerment through Ministry of Tribal Affairs for amending the following provisions of the SCs and STs (POA) Rules, 1995 :-

- i) Amendment in Rule 7 to insert Rule 7-A.
- ii) Amendment in Schedule to Rule 12(4) at Annexure – I.
- iii) Amendment in Schedule to POA Rules at Annexure-II.
- iv) Amendment in Rule 16 (1) (iv).

The SCs and STs (POA) Rules, 1995 were notified 31.03.1995, under the SCs and the STs (POA) Act, 1989. These Rules provide norms for relief and rehabilitation under the said Act, which extends to whole of India except Jammu and Kashmir. These POA Rules were not revised after notification, the need for their amendment has become imperative and following amendments in the POA Rules are being considered :-

**i) Amendment in Rule 7 to insert Rule 7-A.**

Proposed insertion of Rule 7-A

**"7-A. Submission of Reports to Central Government etc. in case of serious offences.**

(1) Whenever a First Information Report is registered for an offence punishable under sub-clause (i), (iv) or (v) of sub section (2) of section 3, the concerned District Magistrate shall submit a preliminary report within four days, in the matter, in such manner as may be prescribed, to the following:

- (i) concerned State Government/Union Territory Administration,

(ii) The Central Government in the Ministry of Home Affairs and the Ministry of Social Justice & Empowerment / Tribal Affairs, depending on whether the offence relates to a Schedule Caste or a Schedule Tribe, and  
(iii) the National Commission for Scheduled Castes / the National Commission for Scheduled Tribes, depending on whether the offence relates to an SC or an ST.

(2) Within 45 days of the registration of the FIR relating to an offence mentioned in sub-rule(1), the concerned State Government/Union Territory Administration shall submit to the Ministries of the Central Government and the concerned National Commission, as specified in sub-rule (1) above, a detailed report in the matter in such manner as may be prescribed, in the light of the report submitted under sub-rule (2) of the rule 7.”

#### **Reason**

At present there is no mechanism, from where M/o SJ&E on continuing basis can obtain authentic and full details of specific incidents of offences of atrocities, especially heinous offences. The Ministry largely comes to know of such incidents through media or representations. Towards evolving a formal system which binds the concerned institution to provide such information to the concerned agency, it is proposed to insert a new Eule 7-A, as above.

#### **ii) Amendment in Schedule to Rule 12(4) at Annexure-I**

Schedule to POA Rules at Annexure-I is captioned “ Norms for relief amount” and prescribes ‘ Minimum amount of relief’. The relief amount varies between Rs. 20,000/- to Rs 2,00,000/-, depending upon the nature of offence and its payment is staggered. The Minimum relief amount as per Schedule to POA Rules as Annexure –I is proposed to be revised to between Rs. 48,000/- to Rs. 4,80,000/-.

#### **Need**

NCST in Chapter 9 of its first Report (2004-05 & 2005-06) had recommended that the amount of financial relief should be reviewed and suitably increased in recognition of the hard fact that the cost of living over past one decade has gone up. In the ‘Action taken’ statement to the said

recommendation, this Ministry (SJ&E) has said that revision of minimum amounts will be taken up.

For consideration of increase in the minimum amount of relief, the benchmark has been proposed to be taken as the Consumer Price Index for Industrial Workers (CPIIW). CPIIW was 293 in March, 1995, when the POA Rules were notified (Base 1982 = 100). CPIIW for May, 2009, works out to 699 (website of Labour Bureau). Therefore, the factor for working out revised minimum amount of relief at CPI 699 would be  $699/293 = 2.4$ .

### **iii) Amendment in Annexure-II of Schedule to POA Rules**

At Sr.No.19 of Schedule to Rule 12(4), it is mentioned that the definition of Disability are contained in the Ministry of Welfare, G.O.I. notification No.4-2/83-H.W.III, dated 6.8.1986, (at Annexure-II of the Rules).

**“Disability.** The definitions of physical & mental disabilities are contained in the Ministry of Welfare, G.O.I. Notification No.4-2/83-HW.III, dated 6.8.1986, as amended from time to time. A copy of the Notification is at Annexure-II to the Schedule.”

#### **Reason for proposed amendment**

Since “disability” has subsequently been defined in Section 2 of the PWD Act, and guidelines for assessment of disability have also been amended, the above Sr.No.19 of the Scheduled may be amended as follows:-

**“Disability.** The definition of disability shall be as given in Section 2 of the PWD Act, and guidelines for their assessment shall be as contained in Ministry of Social Justice & Empowerment, G.O.I. notification No.154, dated 01.06.2001, as amended from time to time. A copy of the Notification is at Annexure-II to the Schedule.”

Accordingly the existing Annexure-II to Schedule to PoA Rules, may be replaced by the latest instructions {Notification dated -01.06.2001 (Annexure-B)} in this regard.

**iv) Amendment in Rule 16(1)(iv)**

Rule 16 of the POA Rules, provides for constitution of State-level vigilance and Monitoring Committee. The composition of the Committee is stated in rule 16(1), Rule 16(1)(iv), as reproduced below, inter-alia, mentions Director/Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes as a Member:-

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

- (i) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:
- (iv) Chief Secretary, the Home Secretary, the Director General of Police, Director/Deputy Director, National Commission for Scheduled Castes and the Scheduled Tribes – Members.”

**Reason for proposed modification**

As in February, 2004, the NCSCST was bifurcated into two separate Commissions, namely the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes, therefore, Rule 16(1)(iv) requires to be amended as under:-

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

- (i) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:
- (iv) Chief Secretary, the Home Secretary, the Director General of Police, Representative of the National Commission for Scheduled Castes and/or National Commission for Scheduled Tribes – Members.”

## II Proposed Recommendations of the Commission on the matter.

The Commission may deliberate on the proposal keeping in view the following:

i) It is mentioned in the section (1) of proposed Rule 7-A that whenever a FIR is registered under sub clause (i), (iv) or (v) of sub section (2) of section 3, the concerned DM shall submit a preliminary report within four days..... ( copy of section 3 is annexed ).

There is no definition of heinous offenses in the Indian Penal Code. It is still not mandatory to register an FIR immediately a complaint is made (matter is being heard in the Supreme Court). As per NCRB crime statistics for 2002 to 2006, nearly 1200-1800 complaints were registered every year (except 2004) in respect of crimes against STs.

### Comparative Incidence of Crime against Scheduled Tribes

| Sl. No. | Crime-Head             | Years |      |      |      |      | % Variati<br>in 200<br>over<br>2005 |
|---------|------------------------|-------|------|------|------|------|-------------------------------------|
|         |                        | 2002  | 2003 | 2004 | 2005 | 2006 |                                     |
| (1)     | (2)                    | (3)   | (4)  | (5)  | (6)  | (7)  | (8)                                 |
| 1.      | Murder                 | 189   | 189  | 156  | 164  | 195  | 18.9                                |
| 2.      | Rape                   | 597   | 597  | 566  | 640  | 699  | 9.2                                 |
| 3.      | Kidnapping & Abduction | 69    | 69   | 79   | 72   | 88   | 22.2                                |
| 4.      | Dacoity                | 37    | 37   | 40   | 27   | 12   | -55.6                               |
| 5.      | Robbery                | 62    | 62   | 50   | 49   | 29   | -40.8                               |
| 6.      | Arson                  | 58    | 58   | 33   | 38   | 46   | 21.1                                |
| 7.      | Hurt                   | 788   | 788  | 767  | 767  | 838  | 9.3                                 |
| 8.      | PCR Act                | 47    | 47   | 11   | 162  | 49   | -69.8                               |
| 9.      | SC/ST (POA) Act        | 1800  | 1800 | 115  | 1283 | 1232 | -4.0                                |
| 10.     | Others                 | 3127  | 3127 | 2658 | 2511 | 2603 | 3.7                                 |

The Commission may deliberate regarding the clauses of the POA/ type of offences to be reported. Also, whether the proposed report should be made immediately a complaint is made or only after an FIR disclosing a cognizable offence has been recorded; and whether the responsibility for sending the report should be imposed on the Superintendent of police instead.

ii) Other three amendments proposed may be considered for agreement.