

**Proceedings of the Sitting of Shri Tsering Samphel, Hon'ble Member with
Govt. of UP and NOIDA on 03.09.2009**

A list of officers present in the sitting is at Annexure.

Issues

Reservation in allotment of residential flats/ plots/ shops/ small commercial plots etc. to SC/ ST & PH by NOIDA.

Background

A representation dated 03/12/2003 was received from Shri Phool Chand, General Secretary, All India Association for SC/ ST & Physically handicapped Peoples Upliftment (Regd.), Noida regarding absence of any reservation in allotment of residential flats/ plots/ shops/ small commercial plots etc. to SC/ ST & PH by NOIDA. The matter was taken up with the CEO, NOIDA. After several reminders and communication from the Commission, CEO, NOIDA replied vide their letter dated 11/02/2005. A detailed note regarding authority and functioning of NOIDA was furnished. As per the note NOIDA has been constituted under Section (3) UP Industrial Area Development Act, 1976. The functions of the Authority includes acquisition of land in Industrial Development Area and to allocate and transfer either by way of sale or release or otherwise plots of land for industrial, commercial or residential purpose. Initially no reservation was made in favour of SC/ ST / PHP. In respect of residential plots, reservation was made in respect of SC/ ST persons only under the Scheme Code Number 1997 (1). 50% of the plots were open for General category and 50% were reserved for following 4 categories

- (i) Functional Industrial Units in Noida
- (ii) Functional Commercial/ Institutional Units in Noida
- (iii) Villagers whose land has been acquired by Noida
- (iv) Bonafide employees of Noida

pursuant to the Judgment of Hon'ble Supreme Court dated 06/04/1987 titled L. Dhingra Vs. State of UP and Others and S.P. Dhani and Others Vs. State of UP reported in AIR 987 SC 1262.

In respect of residential flats, reservation in favour of SC/ ST only was provided in Scheme Code No. 2002-2003 (H)(02) dated 15/11/2002 and SC No. 2002-2003 (H)(05) dated 21/01/2003.

The records reveal that even without their being any reservation, person belonging to SC/ST/PHP categories have been allotted property by the authority without any discrimination. It was stated that the Authority had approached the State Govt. vide letters dated 10/12/2001, 24/04/2003, 07/08/2003 and

26/08/2008 seeking directions with respect to provision for reservation in respect of SC/ST categories for allotment of plots/ flats. The Authority is awaiting directions from the State Govt.

Additional CEO, Noida vide their letter dated 02/08/2006 intimated to the Commission by enclosing a letter dated 23/01/2006 addressed to Special Secretary, Industrial Deptt., Govt. of UP from Noida that if the reservation is provided to the SC/ ST/ OBC and other categories as per Govt. Order dated 23/11/1994 for UP Residential Council and different development authorities, the total reservation becomes 109% which is more than the total available flats/ plots. Therefore, directions were requested from the Govt. of UP. A number of reminders were issued to the Chief Secretary, Govt. of UP regarding the decision of Govt. of UP in this matter, but no reply received.

In view of above, Shri Tsering Samphel, Hon'ble Member of National Commission for Scheduled Tribes decided to have a discussion with the Chief Secretary, UP, Principal Secretary, Deptt. of Industries UP and CEO, NOIDA on the above issue on 03/09/2009 at 1130 hrs in the Commission.

Discussion

It was intimated by the Commissioner, Industrial Development, UP that it has been decided by the Govt. of UP to provide 18% reservation to SC/ST applicants out of 50% already reserved for 4 categories as mentioned below:

(i)	Functional Industrial Units in Noida	- 17.5%
(ii)	Functional Commercial/ Institutional Units in Noida	- 10%
(iii)	Villagers whose land has been acquired by Noida	- 17.5%
(iv)	Bonafide employees of Noida	- 5%
	Total	- 50%

It was further intimated that separate reservation for SC and ST will be notified through a Govt. Order to be issued shortly.

It was assured by the officials of Govt. of UP and NOIDA that the order providing reservation to SC and ST in allotment of residential plots/ flats shall be issued within one month time.

Recommendation

In view of the above discussion, the Commission recommended that order providing reservation to SC and ST in allotment of residential plots/ flats must be issued latest by 30/09/2009.

ANNEXURE

The following were present in the sitting on 03.09.2009:

National Commission for Scheduled Tribes

1. Shri Tsering Samphel, Hon'ble MemberIn Chair
2. Shri Vinod Aggarwal, Director

Govt. of Uttar Pradesh

1. Shri Anoop Misra, Industrial Development Commissioner,

Noida

1. Shri Mohinder Singh, CEO
2. Shri Anil Ras Kumar, Dy. CEO
3. Shri Bipin Gaur, DGM

Petitioner

1. Shri Phool Chand, General Secretary, AIA for SC/ ST & PH People Upliftment, Noida