



No.1/3/2019-Coord.
Government of India
National Commission for Scheduled Tribes

6th Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market, New Delhi -110003
Dated: 13th February, 2019

To,

1. Shri Nand Kumar Sai, Hon'ble Chairperson
2. Miss Anusuiya Uikey, Hon'ble Vice-Chairperson
3. Shri Hari Krishna Damor, Hon'ble Member
4. Shri Harshadbhai Chunilal Vasava, Hon'ble Member
5. Smt. Maya Chintamn Ivnate, Hon'ble Member

Subject: Summary Record of discussions of 112th Meeting of National Commission for Scheduled Tribes (NCST) held on 13.02.2019 at 04:00 P.M.

Sir/Madam,

I am directed to refer to the above subject and to say that 112th meeting of the National Commission for Scheduled Tribes was held on 13.02.2019 at 4:00 P.M in the Conference Room of NCST at Lok Nayak Bhawan, New Delhi. The Meeting was presided over by Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of discussions of meeting is enclosed for information and record.

Yours faithfully,

(S.P. Meena)

Assistant Director(Coord.)

Copy for necessary action, a copy of the Summary Record of discussions of 112th meeting of NCST is enclosed. The action taken report in the matter may be intimated to Coord. Section by 28.02.2019.

- (i) Deputy Secretary (RU-I & RU-IV)
- (ii) Director (RU-II & RU-III)
- (ii) Under Secretary (Estt.)
- (iii) Assistant Director (RU-II & Coordination)
- (iv) Assistant Director (RU-I & OL)
- (v) Assistant Director (Admn.)
- (vi) Research Officer (RU-IV)

Copy for information:

1. Sr.PPS to Secretary, NCST
2. PA to Joint Secretary, NCST
3. Secretary, MoTA, Shastri Bhawan, New Delhi.
4. Additional Secretary, Ministry of Home Affairs, North Block, New Delhi-110001
5. Joint Resident Commissioner, Andman & Nicobar Administration, Andman & Nicobar Bhawan, 12, Chankya Puri, (Behind Chanakyapuri Telephone Exchange), New Delhi-110021.
6. Director/Assistant Director/Research Officer in Regional Office of NCST at Bhopal/Bhubaneshwar/Jaipur/ Raipur/ Ranchi/Shillong
7. NIC, NCST for uploading on the website.



National Commission for Scheduled Tribes
Minutes of the 112th Meeting held on 13.02.2019

राष्ट्रीय अनुसूचित जनजाति आयोग (एन.सी.एस.टी) की 112वीं बैठक में हुई चर्चा का कार्यवृत्त

(फाईल सं. 1/3/2019-समन्वय)

दिनांक : 13.02.2019

समय : 04.00 बजे

स्थान : सम्मलेन कक्ष, राष्ट्रीय अनुसूचित जनजाति आयोग, छटा तल, लोकनायक भवन,
नई दिल्ली-110003.

अध्यक्षता : श्री नन्द कुमार साय, माननीय अध्यक्ष।

प्रतिभागियों की सूची :

1. सुश्री अनुसुईया उइके, माननीय उपाध्यक्ष
2. श्री हरिकृष्ण डामोर, माननीय सदस्य
3. श्रीमती माया चिंतामण इवनाते माननीय सदस्या
4. श्री ए. के. सिंह, सचिव
5. श्री एस.के. रथ, संयुक्त सचिव
6. डॉ. ललित लट्टा, निदेशक
7. श्री पी. टी. जेम्सकुट्टी, उप सचिव
8. श्री डी. एस. कुंभारे, अवर सचिव
9. श्री एस.पी. मीना, सहायक निदेशक
10. श्री राजेश्वर कुमार, सहायक निदेशक (राजभाषा)
11. श्री राकेश कुमार दूबे, सहायक निदेशक (प्रशासन)
12. श्री वाई.के. बंसल, अनुसंधान अधिकारी
13. श्री आर एस मिश्रा, वरिष्ठ अन्वेषक

बैठक के लिए निर्धारित कार्य सूची मदों पर चर्चा की गई और निम्नलिखित निर्णय लिए गए :



National Commission for Scheduled Tribes
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Agenda Item No.1	Proposal for introduction of the Reservation in appointment of Faculty by direct recruitment in teachers' cadre, in Central Educational Institutions Ordinance, 2019-Reg.
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(File No. Meeting /2/2019/MHA(DHE)/RU-III)

The Ministry of Human Resource Development, Deptt. of Higher Education has sent a copy of the Note for the Cabinet along with a copy of the draft bill on Proposal for introduction of the Reservation in appointment of Faculty by direct recruitment in teacher's cadre, in Central Educational Institutions Bill, 2018-regarding comments of the National Commission for Scheduled Castes.

The proposal, Justification of the Proposal & Salient Features of the Ordinance, 2019 are as under:

The Proposal:

The proposal is to introduce a legislation, **namely the Reservation in appointment of Faculty by direct recruitment in teachers' cadre, in Central Educational Institutions Bill, 2018** to provide for the reservation of posts in appointments by direct recruitment of persons belonging to the Scheduled Castes, Scheduled Tribes and the other Backward Classes, to teachers cadre in certain Central Educational Institutions established, maintained or aided by the Central Government, and for matters connected therewith or incidental thereto has been proposed.

Justification of the Proposal:-

Pursuant to the impugned judgment, data/statistics which have been collected by University Grants Commission show that the implementation of the reservation policy by taking each department/subject as a Unit, will impede the chances of fair selection of SC/ST candidates as well as OBCs and violate their fundamental rights under Articles 14, 16 and 21 of the Constitution. As per the data available, seats reserved for SC/STs and OBCs will reduce drastically in the cadre of Assistant Professors to even nil seats in some cadres.

The Hon'ble High Court ruling will defeat the very purpose of the Central Government's reservation policy (implemented through the University Grants Commission guidelines, to ensure adequate representation to SC/ST community members in services under various Central Universities, Deemed Universities, Colleges and other Grant-in-Aid Institutions and Centres.

There is a regulatory vacuum in this matter which needs to be filled clearly stating how the reservation system shall operate at university/institution level.

It is felt that there should not be any objection to the proposal for introduction of the reservation in appointment of faculty by direct recruitment in teacher's cadre, the Central Educational Ordinance 2019 of the Ministry of Human Resource Development. Accordingly, the matter was placed before the Commission.

[National Commission for Scheduled Tribes agrees with the proposal for introduction of the Reservation in appointment of Faculty by direct recruitment in teachers' cadre, in Central Educational Institutions Ordinance, 2019.]



National Commission for Scheduled Tribes
Minutes of the 112th Meeting held on 13.02.2019

Agenda item No. 2	Draft Note for Cabinet regarding "Constitution of Development and Welfare Board for de-notified, Nomadic and Semi-nomadic Communities(DWBDNCs).
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(File No. Cabinet Note/1/MoSJE/2019/RU-II)

The Ministry of Social Justice and Empowerment, Department of Social Justice and Empowerment has sent an O.M. dated 11th February,2019 enclosing a copy of Draft Note for the Cabinet regarding for Constitution of Development and Welfare Board for DE notified, Nomadic and Semi-Nomadic Communities(DWBDNCs).

2. The Proposal- Justification of the proposal and silent feature of the Cabinet Note are as under:

Proposal

3. It is proposed to set up a Development and Welfare Board for the DE notified, Nomadic and Semi-Nomadic communities as per the budget announcement in the interim budget of 2010-20 with following terms of reference:

- To formulate and implement Welfare and Development programmes, as required, for de-notified, Nomadic and Semi-Nomadic Communities.
- To identify the locations/areas where these communities are densely populated.
- To assess and identify gaps in accessing existing programmes and entitlement and to collaborate with Ministries/implementing agencies to ensure that ongoing programmes meet the special requirements of DE notified, Nomadic and Semi-Nomadic Communities.
- To monitor and evaluate the progress of the schemes of Government of India and the States/UTs with reference to DE notified, Nomadic and Semi-Nomadic Communities.
- Any other related work as may be assigned by the Ministry of Social Justice and Empowerment.

4. The proposed Board would be registered under the Societies Registration Act, 1980.

5. The composition of the Governing Body of the Board is proposed below:

- Chairperson to be appointed by the Government of India.
- Chief Executive Officer of the Board in the rank of Joint Secretary to the Government of India- Member Secretary.
- Joint Secretary, Department of Social Justice and Empowerment dealing with the Subject-Member.
- Representative of Ministry of Tribal Affairs – Member.
- Representative of Department of School Education-Member.
- Five eminent persons from or working in the field of DE notified, Nomadic and Semi-Nomadic Communities to be nominated as Members by the Government of India.

6. Appointment of Chairperson and Chief Executive Officer will be made for a period of three years extendable up to five years.



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7. The Board will be assisted by one Director, one Under Secretaries, two Section Officers and two Assistant Section Officers. Assistance of Data Entry Operators and MTS will be taken on outsourced basis. Proposal for the creation of these posts will be sent separately to the Ministry of Finance.

8. The tasks of identification of certain communities requires further listing and verification for which it is proposed to set up a Committee under the Chairmanship of Vice Chairperson, NITI Aayog with maximum three Members to be nominated by the Government of India, to complete the process of identification of the communities that have not yet been formally classified by both the Commissions.

Justification:

9.. The Commission recommended the setting up of Permanent Commission for the DNTs. Further, constitution of a permanent Commission will not be very effective in implementing development programmes but will look more at grievance redressal and will therefore be in conflict with SC/ST/BC Commissions. Therefore, it is proposed to set up a Development and Welfare Board under the aegis of Ministry of Social Justice and Empowerment for the purpose of implementing development and welfare programmes for DE notified and Semi-Nomadic Communities.

10. For the task of further identification of the communities which require listing and verification, it is proposed that a Committee under the Chairpersonship of Vice-Chairman, NITI Aayog will be set up to complete the process of identification of the Communities not yet formally classified by either of the Commissions.

11. The recommendations of the Commission to repeal the Habitual Offenders Act leading to de-stigmatization of these communities requires further action. Habitual Offenders Act being a State Act, it is proposed to request Ministry of Home Affairs to examine the issue and hold consultation with States/UTs for repealing the Habitual Officers Act.

12. It is felt that there should not be any objection to the draft Cabinet Note of the Ministry of Social Justice & Empowerment. Accordingly, the matter was placed before the Commission.

[National Commission for Scheduled Tribes agrees with the proposal made in the Draft Note for Cabinet regarding "Constitution of Development and Welfare Board for de-notified, Nomadic and Semi-nomadic Communities(DWBDNCs).]

13.02.019

नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi



National Commission for Scheduled Tribes
Minutes of the 112th Meeting held on 13.02.2019

Agenda item No. 3	The Jharkhand Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 2018.
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(Meeting/1/2019(MHA) Judicial & PP/RU-III)

The Ministry of Home Affairs has forwarded an O.M. dated 17th January, 2019 along with a copy of regulation on the subject mentioned above.

2. The proposed regulation is expedient to control and check transfer of Immovable Property by the Schedule Tribes in the Scheduled Areas of

the State of Jharkhand.

3. The Regulation proposed are mainly:-

(i) Notwithstanding anything contained in any law for the time being in force any transfer to immovable property by a member of a Scheduled Tribe, except by way of mortgage executed in favour of any public financial institution for securing a loan granted by such institution of any Agricultural purpose, shall be absolutely null and void and of no force or effect whatsoever, unless such transfer is made in favour of another member of a Scheduled Tribe: Explanation:

(ii) For the purposes of this sub-section, a transfer of immovable property: The transfer land belonging to occupancy raiyat in favour of a female member of a Scheduled Tribe, who is married to a person not belonging to any Scheduled tribe, shall be deemed to be a transfer made in favour of a person not belonging to a Scheduled Tribe.

(iii) Where a transfer of immovable property is made in contravention of sub of sub section (1) Explanation-1, the restoration of possession of such immovable property shall be made as per the provision given in the Section 71A of the Chhotanagpur Tenancy Act, 1908 and in the section 20(5) of the Santhal Paragana Tenancy Act, 1949.

4. The subject matter of the Regulation comes under the entry 18 of List II (State List) of the Seventh Schedule of the Constitution of India.

5. It is also important to mention that all matters regarding administration and control of scheduled areas and schedules tribes come within the ambit of Fifth Schedule of the Constitution of India and the proposed The Jharkhand Schedules Areas Transfer of Immovable Property (by Schedules Tribes) Regulation, 2018 is also covered in the Fifth Schedule of Constitution of India.

6. Fifth schedules part B (5)(4) of the Constitution of India clearly speaks that "All regulations made under this paragraph shall be submitted forthwith to the President and until assented by him, shall no effect".

7. Accordingly, the matter was placed before the Commission.

[National Commission for Scheduled Tribes supports with the proposal made in Jharkhand Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 2018.]

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13.02.2019
नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi