

59th MEETING
OF THE
NATIONAL COMMISSION FOR SCHEDULED TRIBES
SUMMARY RECORD OF DISCUSSIONS

Date: 5th August, 2014 **Time:** 11:30 hours

Venue: Conference Room, NCST, 6th Floor, Lok Nayak Bhawan, New Delhi.

In the Chair: Dr. Rameshwar Oraon, Hon'ble Chairperson, NCST

List of Participants: Annexed.

At the outset, the Commission expressed its Condolence at the sudden demise of Smt. K. Kamala Kumari Member of the Commission on 17/07/2014. The Commission remembered Smt. K. Kamala Kumari as a truly affable person and always concerned with the issues concerning welfare of the Scheduled Tribes and especially towards women.

2. All the four listed Agenda Items and two tabled Agenda were discussed and decided as below:

Agenda Item 1	Issues relating to Order dated 10/08/2010 granting ST status to those belonging to Halba Koshti etc. and having obtained employment on the basis of certificates as ST. (Pending from 56th meeting)
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3. The Commission was informed that the subject matter of the above Agenda Item could not be discussed in the 56th meeting as the quorum for the meeting was not complete. It was recalled that a Sitting in the matter was held in the Commission on 25/06/2014 with the Officers from Department of Personnel and Training, Department of Legal Affairs, Ministry of Tribal Affairs and Government of Maharashtra. It was decided that the Commission would proceed internally on related matters with whatever replies that have been or are received. It was noted that the request made to DoPT, CEA, PNB, FCI, Department of Legal Affairs and other organizations employing such bogus certificate holders to identify the persons involved or who failed

to take appropriate action especially in regards to the OM dated 10/08/2010 of the Department of Personnel and Training has not yielded any information or reply. As a large number of person have benefitted by the actions of officers and staff of Department of Personnel and Training, Department of Legal Affairs and other organizations, the appropriate course would be to refer the matter to the CVC to take further action, after the pronouncement of the judgment by the Hon'ble Supreme Court of India in this connection, if it merits so.

Agenda Item II	Recording, the decision taken in the 56th, 57th and 58th meeting of National Commission for Scheduled Tribes and the comments conveyed to the Ministry of Tribal Affairs on the following Draft notes for CCEA / Cabinet: (i) The scheme of "Grants-in-aid to Voluntary Organizations". (ii) Centrally Sponsored Umbrella Scheme for Education for STs. (iii) Amendment of National Commission for Woman Act. 1990. (iv) Draft National Plan of Action for Children prepared by Ministry of Women and Child Development.
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4. The Commission was informed that discussions on above mentioned policy matters of very urgent nature could not be held in the 56th, 57th and 58th meetings. In view of urgency, the comments of the Commission, after consideration and approval by the Chairperson, were forwarded to the concerned Ministries for necessary action. The decisions communicated were read out for information of the Members present. It was further decided that copies of the communications sent to the Ministries may be furnished to all the Members, if not furnished earlier.

Agenda Item III	Amendment of Rule 46 of Rules of Procedure of National Commission for Scheduled Tribes.
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5. The National Commission for Scheduled Tribes has five Members including Chairperson, Vice-Chairperson and three other Members. Clause 4 of Article 338A of the Constitution empowers the National Commission for Scheduled Tribes to regulate its own procedure. Accordingly, Rules of Procedure of the National Commission for Scheduled Tribes were approved by the Commission and notified in the Gazette of India related 16/10/2004.

6. Recently, due to non-availability of some Members and Vice Chairperson the

Commission's meeting could not be held as per the provision under Rule 46 of the Rules of Procedure which provide that "Presence of at least three members including

the Chairperson and/or Vice-Chairperson shall constitute the quorum for holding meeting of the Commission". To obviate such situations of quorum in future and as National Commission for Scheduled Tribes is empowered to regulate its own procedure, Rule 46 of Rules of Procedure shall be amended as below, to ensure regular holding of the meetings of the Commission for fulfilling the mandate of the Commission under Article 338A(9) of the Constitution.

<u>Rule</u>	<u>Existing entry</u>	<u>Proposed amendment</u>
46	Presence of at least three members including the Chairperson and/or Vice-Chairperson shall constitute the quorum for holding meeting of the Commission.	(i) Presence of minimum 50% of posted members including the Chairperson and/or Vice Chairperson shall constitute the quorum for holding meeting of the Commission. (ii) If the quorum is not complete, the Chairperson may adjourn the meeting for half an hour. When the Commission reassembles, the quorum requirement shall not apply.

Agenda Item IV	Draft Note for Cabinet on the Juvenile Justice (Care and Protection of Children) Bill, 2014 for Comments/ suggestions of NCST – reference from Ministry of Women and Child Development.
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7. The Commission was informed that Ministry of Tribal Affairs vide OM No. 16015/6/2014-Eco. dated 25/07/2014 has forwarded the draft note for the Cabinet on the above subject received from the Ministry of Women and Child Development vide OM No. 1-3/2012-CW-II (Pt.) dated 24/07/2014 for comments/ views of the National Commission for Scheduled Tribes and that the Ministry of Women and Child Development has sought the comments/ suggestions by 08/08/2014. After detailed discussions over various provisions of the Bill, the Commission approved the draft Note for the Cabinet with the following observations:

- (i) Given the extreme poverty and reticent nature of Scheduled Tribes, the children of ST migrants become easy targets for such crimes by juvenile offenders. ST Parents may be employed under conditions of slavery and may

also have been trafficked illegally which renders them weak to file FIRs. In such cases, the offences should not only invite higher minimum punishment in addition to cash compensation, but the minimum Juvenile age level of the person who commits crime should be kept lower than for the case of general category victims.

(ii) The issue of vicarious criminal and civil responsibilities of the parents/ guardians of the juvenile delinquent (accused) also needs to be considered.

Additional Agenda Items taken up with the permission of the chair

Agenda Item V	Inclusion of Binjhia Community in the list of Scheduled Tribes in respect of Chhattisgarh State
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8. The Commission was informed that in pursuance of the decision taken in the 51st meeting of the Commission a team of the Commission led by Shri B.L. Meena, Member, National Commission for Scheduled Tribes, had visited the State of Chhattisgarh and conducted the field study on the above proposal of the State Government in February, 2014 and the Report of the Member, NCST was placed for discussion in the 53rd meeting of the Commission held on 22/05/2014. The Commission had noted that, as per Rule 36 of the Rules of Procedure of the Commission, in the context of Investigation or inquiry by an Investigation Team constituted at the Headquarters of the Commission, the report has be placed before the Chairperson of the Commission who will take appropriate action in the matter. It was decided that the Report of the Member on the above subject may be placed before the Chairperson for further directions in the matter. The file with note of the Secretariat on the report of the Member on the subject matter was placed before the Chairperson. As directed by the Chairperson the matter has been taken up as additional agenda in the meeting.

9. It was informed that the list of Scheduled Tribes in relation to Chhattisgarh State, created out of Madhya Pradesh State in pursuance of MP Re-organization Act, 2000 has 42 ST communities and "Binjhwar" is one such community listed at SI No. 11 in the list of Scheduled Tribes. Binjhwar Community is found in Raipur, Janjgir-Champa, Ambikapur, Korba and Koriya Districts of the State. Accorded to the Historians Russel and Hira Lal (1916) Binjhwar Community has for sub-tribes viz;

Binjhar, Sonjhara, Birjiya and Binjhia. The Census 1931 also reported Binjhia as Sub-tribe of Binjhar. An earlier Historian Rizle (1891) had also reported Binjhar and Binjhia having the same meaning. Therefore, persons belonging to Binjhia Community have been getting ST certificate prior to 2001, when grant of such certificates was withdrawn after judgment of the Supreme Court of India (AIR 2001 SC 393- State Governments of Maharashtra v/s Milind), according to which a person belonging to a Community which is not specifically mentioned in the Constitution (ST) Order cannot claim as Scheduled Tribe. Consequently, the Revenue Authorities stopped issuing ST certificates to those persons belonging to Binjhia Community. In view of the Supreme Court Judgment the State Government has proposed to include Binjhia as a separate Community in the list of Scheduled Tribes in respect of Chhattisgarh State.

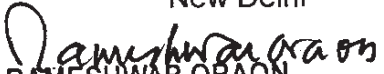
10. Since the historical and the Census records as well as the study conducted by the Member of the Commission reveal that Binjhia were originally either a synonym or Sub-tribe of Binjhar Community, the Commission accepted the recommendation made in the Report of the Member, National Commission for Scheduled Tribes to include BINJHIA as independent Community in the list of Scheduled Tribes of Chhattisgarh State keeping in view the judgment of the Supreme Court of India. The Registrar General of India has also agreed for inclusion of Binjhia Community in the list of Scheduled Tribes. In order to ensure that genuine persons belonging to BINJHIA community only get the benefit of inclusion of the community in the list of Scheduled Tribes, the Commission recommended inclusion of Binjhia Community in the list of Scheduled Tribes in Raipur, Janjgir- Champa, Ambikapur, Korba and Koriya Districts only of the Chhattisgarh State where they are stated to be found and mention the blocks, villages, tolas and hamlets where they are to be found. Since an area restriction has to be imposed while scheduling BINJHIA community as a ST. The Commission was also of the view that State Government should take steps to assess the population of BINJHIA community in each hamlet/ tola/ village/ Block/ tehsil in the above mentioned districts, which will help check unexpected reporting of its population in the next Census and also assist the revenue authorities while issuing certificates to genuine persons belonging to BINJHIA community.

Agenda Item VI	Revised EFC proposal for revision of National Service Scheme (NSS)
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11. The Commission noted that NSS is a continuing Centrally Sponsored Scheme of the Ministry of Youth Affairs and Sports which aims at personality and character development of the students through Voluntary community service. The Scheme has been in operation since 1969. The proposal is to continue NSS, with some modifications. The Commission also noted that the draft EFC proposal for revision of NSS were received earlier and discussed in the 53rd meeting of the National Commission for Scheduled Tribes, held on 22/05/2014. The observations made by the Commission were communicated to the sponsoring Ministry (Ministry of Youth Affairs and Sports, Department of Youth Affairs). The sponsoring Ministry has revised the EFC proposal after incorporating the views of the Commission and other Ministries consulted in the matter along with their response in each case. In view of the content of the revised Note in response to the Commission's earlier observations, the Commission approved the revised EFC proposal.

12. The meeting ended with a vote of thanks to the Chair.

Chairperson
National Commission for Scheduled Tribes
New Delhi


Dr. RAMESHWAR ORAON
Chairperson
National Commission for Scheduled Tribes
Govt. of India
New Delhi

ANNEXURE-I

National Commission for Scheduled Tribes

59th meeting of NCST,
held on 05/ 08/ 2014 at New Delhi

LIST OF PARTICIPANTS

1. Dr. Rameshwar Oraon, Chairperson (In Chair)
2. Shri Ravi Thakur, Vice-Chairperson
3. Shri Bheru Lal Meena, Member
4. Sh. R. Vijaykumar, PhD, Secretary
5. Sh. Santosh Kumar, Joint Secretary
6. Smt. K. D. Bhansor, Director
7. Shri T.D. Kukreja (PS to Chairperson)
8. Shri R.C. Durga, Consultant
9. Shri S. P. Meena, Assistant Director

