

COMMITTEE ON THE WELFARE OF  
SCHEDULED CASTES AND  
SCHEDULED TRIBES  
(2008-2009)

(FOURTEENTH LOK SABHA)

THIRTY SIXTH REPORT

ON

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

National Commission for the Scheduled Castes – its mandate and  
achievements – A review of its organization and working.

Presented to Lok Sabha on 18.02.2009

Laid in Rajya Sabha on 18.02.2009

LOK SABHA SECRETARIAT  
NEW DELHI

February, 2009 /Magha, 1930(Saka)

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED  
CASTES AND SCHEDULED TRIBES (2008-2009)**

Shri Ratilal Kalidas Varma - Chairman

**MEMBERS – LOK SABHA**

2. Shri Anandrao Vithoba Adsul
3. Smt. Susheela Bangaru Laxman
- \* 4. Shri Ajit Jogi
5. Shri S. Ajaya Kumar
6. Sardar Sukhdev Singh Libra
7. Shri Kailash Meghwal
8. Shri Rupchand Murmu
9. Shri A. Venkatesh Naik
10. Shri Jual Oram
11. Shri Virchandra Paswan
12. Shri Kishanbhai V. Patel
13. Shri E. Ponnuswamy
14. Shri Ashok Kumar Pradhan
15. Shri Sugrib Singh
16. Shri Ramjilal Suman
17. Shri Chengara Surendran
18. Shri Narsingrao H. Suryawanshi
19. Smt. Krishna Tirath
20. Shri G. Venkatswamy

**MEMBERS – RAJYA SABHA**

21. Shri Krishan Lal Balmiki
22. Dr. Radhakant Nayak
23. Shri Mahendra Sahnii
24. Shri Thomas Sangma
25. Shri Jesudas Seelam
- # 26. Shri Veer Singh
27. Shri Tiruchi Siva
28. Shri Brij Bhushan Tiwari
29. Miss Anusuiya Uikey
30. Shri Nandi Yellaiah

\* Ceased to be a Member of the Committee w.e.f. 26.12.2008, in terms of provisions of clause (2) of article 101 of the Constitution read with Rule 2 of the Prohibition of Simultaneous Membership Rules, 1950

# Ceased to be a Member of the Committee on his retirement from Rajya Sabha with effect from 25.11.2008

**SECRETARIAT**

- |    |                     |   |                   |
|----|---------------------|---|-------------------|
| 1. | Shri P.K. Misra     | - | Joint Secretary   |
| 2. | Shri Gopal Singh    | - | Director          |
| 3. | Ms. J.C. Namcho     | - | Deputy Secretary  |
| 4. | Shri Joginder Singh | - | Committee Officer |

## **INTRODUCTION**

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Thirty-sixth Report (Fourteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject “National Commission for the Scheduled Castes (NCSC) - it’s mandate and achievements – A review of its organisation and working”.

2. The Committee took evidence of the representatives of the Ministry of Social Justice and Empowerment on 17<sup>th</sup> October, 2007. The Committee wish to express their thanks to the officers of the Ministry of Social Justice and Empowerment for placing before the Committee the material and information the Committee required in connection with the examination of the subject.

3. The Report was considered and adopted by the Committee on 3<sup>rd</sup> February, 2009.

4. A summary of conclusions/recommendations contained in the Report is appended (Appendix).

New Delhi;  
February, 2009  
Magha, 1930(Saka)

**RATILAL KALIDAS VARMA**  
Chairman  
Committee on the Welfare of  
Scheduled Castes and  
Scheduled Tribes.

## CHAPTER – I

### OBJECTIVE FOR CONSTITUTION OF NCSC

#### (i) Origin of National Commission for Scheduled Castes (NCSC)

1.1 Special provisions have been made in the Constitution with a view to providing safeguards against the exploitation of Scheduled Castes and Scheduled Tribes and to promote and protect their social, educational, economic and cultural interests. For effective implementation of various safeguards provided in the Constitution for the Scheduled Castes and Scheduled Tribes and various other protective legislations, the Constitution had provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer appointed on 18<sup>th</sup> November, 1950 and designated as Commissioner for Scheduled Castes and Scheduled Tribes was assigned the duty to investigate all matters relating to the safeguards for Scheduled Castes and Scheduled Tribes in various statutes and to report to the President upon the working of these safeguards.

1.2 On persistent demand of the Members of Parliament that the Office of the Commissioner for Scheduled Castes and Scheduled Tribes alone was not enough to monitor the implementation of Constitutional safeguards, a proposal was moved for amendment of Article 338 of the Constitution (46<sup>th</sup> Amendment) for replacing the arrangement of one Member system with a Multi-Member system. While the amendment to Article 338 was still under consideration, the Government decided to set up a Multi-Member Commission through an administrative decision vide Ministry of Home Affairs' Resolution No.13013/9/77-SCT(I), dated 21.07.1978. The first Commission for Scheduled Castes and Scheduled Tribes was, therefore, set up in

August, 1978. The functions of the Commission for Scheduled Castes and Scheduled Tribes broadly corresponded with those of the Commissioner for Scheduled Castes and Scheduled Tribes. The functions of the Multi-Member Commission set up in 1978 were modified vide Ministry of Welfare's Resolution No.BC-13015/12/86-SCD VI, dated 01.09.1987 and the Commission for Scheduled Castes and Scheduled Tribes was renamed as the National Commission for Scheduled Castes and Scheduled Tribes. It was set up as a National Advisory Body to advise the Government on broad policy issues and levels of development of Scheduled Castes and Scheduled Tribes. The statutory National Commission for Scheduled Castes and Scheduled Tribes came into being consequent upon passing of the Constitution (Sixty-fifth Amendment) Bill, 1990. The first Commission under the Constitution (Sixty-fifth Amendment) Act was constituted on 12.03.1992 replacing the Commissioner for Scheduled Castes and Scheduled Tribes and the Commission set up under the Ministry of Welfare's Resolution of 1987. Consequent upon the enactment of Constitution (Eighty-ninth Amendment) Act, 2003 which came into force w.e.f. 19.02.2004, Article 338 was amended and the Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two separate Commissions viz. the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes and Article 338 A was inserted below the main Article 338 in respect of creation of National Commission for Scheduled Tribes. The actual bifurcation, however, came into effect from 01.12.2004.

1.3 The Ministry of Social Justice and Empowerment vide its notification dated 20.02.2004 notified the Rules viz., “The National Commission for Scheduled Castes Chairperson, Vice-Chairperson and Members (Condition of Service and Tenure) Rules, 2004” specifying therein the powers and functioning of National Commission for Scheduled Castes. Accordingly, the National Commission for Scheduled Castes was constituted and the following functionaries were appointed with the warrant in his own hand by His Excellency the President of India Dr. A.P.J. Abdul Kalam:-

(i)	Dr. Suraj Bhan	Chairperson
(ii)	Shri Fakirbhai Vaghela	Vice-Chairperson
(iii)	Shri Phool Chand Verma	Member
(iv)	Shri Devender V.	Member
(v)	Smt. Surekha Lambture	Member

1.4 The above functionaries assumed office on 25.02.2004 except Smt. Surekha Lambture, who assumed office on 26.02.2004. The Chairperson and the Vice Chairperson were conferred the status of Cabinet Minister and Minister of State of the union, respectively.

**(ii) Functions, Duties and Powers**

1.5 The functions, duties and powers of the National Commission for Scheduled Castes have been laid down in Clauses (5), (6), (7), (8) and (9) of the Article 338 of the Constitution. Clause (5) states that it shall be the duty of the Commission:



- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;
- (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;
- (c) to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;
- (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
- (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

1.6 Clause (6) provides that the President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

1.7 Clause (7) provides that where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such reports shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

1.8 Clause (8) states that the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

1.9 Clause (9) provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

1.10 When asked whether there is any deviation in regard to functioning of NCSC in comparison to the erstwhile National Commission for Scheduled Castes and Scheduled Tribes and whether the Government propose to strengthen the Commission, the Ministry in their post evidence note furnished to the Committee have stated that the National Commission for Scheduled Castes has been constituted under Article 338 of the Constitution under which the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had been functioning. There is no deviation in regard to the functioning. The National Commission for Scheduled Castes is vested with adequate powers to take effective measures to safeguards the interest of Scheduled Castes under Article 338 of the Constitution.

1.11 Shri Fakirbhai Vaghela, Vice-Chairman, National Commission for Scheduled Castes while submitting First Special Report (1.4.2006 to 30.9.2006) to the President of India vide his DO No. 6/2/2006-ESDW, dated February, 2007 has *inter-alia* stated that one mandate of the Article 338(5)(c) of the Constitution is that it is the duty of the Commission to participate and advise on the planning process of socio-economic development of SCs which has not been translated into practice by making institutional arrangement in the planning process of the Government. He has, therefore, requested that Chairman of NCSC needs to be made a member of the Planning Commission, if not possible for any reason, then at least as a permanent invitee to the Planning Commission.

1.12 During evidence, Secretary, NCSC explained the reason as to why it was requested that Chairman of the Committee should be made member of the Planning Commission:-

“Under Article 338(5)(c), the Commission is required to participate and advise on the planning process of social-economic development of Scheduled Caste and to evaluate the progress of their development under the Union or any State. Now, no institutional mechanism exists by which the Commission is participating in this process of planning. We are not consulted by the Planning Commission in an institutional manner; ad hoc consultation might be there from time to time. That is why, we had put forward the proposal that the Chairman of the Commission should be a member of the Planning Commission or a permanent special invitee. Similarly, we had requested the State Governments that a representative of the Commission should be associated with the State Planning Board on permanent basis, but no State is responding to that”.

1.13 The Committee enquired as to how will that help as even if the Chairman becomes a member or invitee of the Planning Commission, the efficacy of the Commission will not improve and it will still continue to be recommendatory and the Parliament will have to take decisions. As long as Article 338 is as it is, even if the Chairman becomes a member of the Planning Commission, it does not really change anything.

The Secretary, NCSC replied:

“That is so far as individual cases are concerned, but you see the process of planning. The input can be given by us. So, we have to participate in the process of planning and evaluation. So, for that, there should be an institutional mechanism, which has not been put into practice. I am bringing it to your kind notice that in spite of the Constitutional provisions, institutional arrangement which is required to be made, to translate the mandate into action and action into result, dose not exist”.

1.14 During evidence, when asked about reaction of the Government in this regard the Secretary, Ministry of Social Justice and Empowerment responded:-

“..... about the issue whether the Chairperson should be a Member of the Commission and all that – without reflecting on the point because one of the esteemed Members raised a question mark as to what purpose it is going to serve- I will not get into that thing at all. I would seek you indulgence to be able to respond to it subsequently after checking up my facts”.

She further stated:-

“.....About the mechanism, that is, that there is no institutional mechanism to involve the Commission in the planning process. My very humble submission is that there is a Steering Committee on Empowerment of SCs, OBCs and Minorities under the Chairmanship of the Member, Planning Commission, Dr. B. Mungekar and Secretary of the Commission is a Member of that Committee. This to ensure an institutional mechanism to do it”.

1.15 The Ministry in their post evidence reply, however, have stated that under Clause 5(c) of Article 338 of the Constitution, the Commission has power to participate and advise on the planning process of socio-economic development of Scheduled Castes. The representatives of the National Commission are associated in various Committees, Working Groups or other such bodies set up by Planning Commission.

**1.16 The Committee note that under Article 338 of the Constitution, a Special Officer who was designated as Commissioner for SCs and STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes. On persistent demand by MPs that the Office of the Commissioner for Scheduled Castes and Scheduled Tribes alone was not enough to monitor the implementation of constitutional safeguards, a**

proposal was moved for amendment of Article 338 under the Constitution (46<sup>th</sup> Amendment) for replacing the arrangement of one member system with a multi-member system. The first Commission for SCs and STs was set up in August, 1978 through an administrative decision vide Ministry of Home Affairs Resolution No.13013/9/77-SCT(I), dated 21.07.1978. The functions of this multi-member Commission were modified in 1987 and the Commission for SCs and STs was renamed as the National Commission for Scheduled Castes and Scheduled Tribes. The Committee, however, note that the first statutory National Commission for Scheduled Castes and Scheduled Tribes under the Constitution (Sixty-fifth Amendment) Act was constituted only on 12.03.1992, replacing the Commissioner for Scheduled Castes and Scheduled Tribes. The Committee further note that consequent upon the Constitution (Eighty-ninth Amendment) Act, 2003, which came into force w.e.f. 19.02.2004, Article 338 was amended to create National Commission for Scheduled Castes and Article 338A was inserted to create National Commission for Scheduled Tribes. Thus the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two different Commissions.

1.17 The Committee note that according to the National Commission for Scheduled Castes Chairperson, Vice-Chairperson and Members (Condition of Service and Tenure) Rules, 2004, the Members of the Commission are enjoying the status of Secretary to the Government of India. The Chairperson and the Vice-Chairperson have been conferred the status of Cabinet Minister and Minister of State, respectively. The Committee note that there is no

deviation in regard to the functioning of NCSC from that of erstwhile NCSCST and it has been vested with adequate powers to take effective measures to safeguard the interest of Scheduled Castes under Article 338 of the Constitution. The functions, duties and powers of the NCSC *inter-alia* include investigation and monitoring of all matters relating to safeguards provided for the Scheduled Castes under the Constitution, or under any other law or any order of the Government and to evaluate the safeguard, to enquire into specific complaints regarding deprivation of rights provided under the Constitution, to present to the President annual reports upon working of these safeguards, to make recommendations as to the measures that should be taken by the Union or any State for protection, welfare and socio-economic development of the SCs as well as other functions as the President may by rule specify.

1.18 Keeping in view the immense responsibility entrusted to the Commission to investigate and monitor all matters under the Constitution or under any other law or under any order of Government, the Committee are of the view that the strength of the Commission is not adequate to cater to the needs and problems of SC population spread all over India. Inquiring into specific complaints of deprivation of rights itself is a vast responsibility. Deprivation of rights in the form of atrocities against SCs, suppression of their civil rights as also deprivation of their service rights are some of the matters which require to be inquired into objectively by visiting the places of occurrence of such incidents to have the first hand knowledge and information.

The Committee, therefore, recommend that the strength of the Commission should be increased suitably with a view to assigning each member specific subjects such as atrocities, socio-economic development, service matters, etc. so that he may give his undivided attention to find a favourable solution to the problems/difficulties being faced by the distressed SC people. The Committee also note that a very important function provided under Clause (9) of Article 338, is that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes. The Committee, therefore, strongly recommend that the Union and the State Governments should ensure that the Commission is always consulted in all policy matters affecting the Scheduled Castes for their concurrence. The Committee should also be apprised of the policy matters on which the Commission had been consulted by the Union and State Governments in the recent past.

1.19 The Committee note that Shri Fakirbhai Vaghela, Vice Chairman, NCSC while submitting the First Special Report (01.04.2006 to 30.09.2006) to His Excellency President of India in his DO letter, dated February, 2007 has inter-alia mentioned that one mandate of Article 338 (5)(c) of the Constitution, that it is the duty of the Commission to participate and advise on the planning process of socio-economic development of SCs, has not been translated into practice by making institutional arrangement in the planning process of the Government. He had, therefore, requested that Chairman of NCSC needs to be made a member of the Planning Commission or, if not possible, then at least a



permanent invitee to the Planning Commission. The Secretary, Ministry of Social Justice and Empowerment had, however, refuted the claim made by NCSC by saying that the National Commission are associated in various Committees, working groups or other such bodies set up by the Planning Commission. The Committee feel that there is an urgent need to bring out a formula by which participation of the NCSC in the planning and evaluation process for socio-economic development of SCs at the Central and State levels is assured. If required, the Committee would like the Government to initiate action to amend Article 338 of the Constitution so that the Chairman of the Commission may have an effective role in planning and evaluation process at the Central and State levels.

**(iii) Organisational Set-up**

1.20 The National Commission for Scheduled Castes functions from headquarters located at New Delhi and from 12 State offices of the Commission located in Agartala, Thiruvananthapuram, Ahmedabad, Kolkata, Bangalore, Chandigarh, Lucknow, Guwahati, Chennai, Hyderabad, Patna and Pune.

1.21 There are four wings at Headquarters:-

- (a) Administration and Coordination Wing;
- (b) Service Safeguards Wing;
- (c) Atrocities and Protection of Civil Rights Wing; and
- (d) Economic and Social development Wing.

**(a) Administration and Coordination Wing**

This Wing looks after personnel management of officers and staff of the Secretariat of the Commission and provide administrative support in the functioning of the Commission. The Coordination Wing co-ordinates the various activities being performed in the Commission including making arrangements for holding internal meetings of the Commission as well as with State/UT Administrations for reviewing the implementation of constitutional safeguards.

**(b) Service Safeguards Wing**

This Wing is dealing with the implementation of service safeguards provided to Scheduled Castes in the Central/State Government services as well as Central and State Government, Public Sector Undertakings. All representations/complaints relating to Scheduled Castes persons about their service matter are dealt within this Wing. In addition, to policy matters relating to enactment/Government orders and instructions pertaining to representation of Scheduled Castes in service, evaluation studies/surveys relating to implementation of the various Constitutional safeguards in respect of service matters are dealt in this Wing. Cases relating to false caste certificate and inclusion or exclusion of caste(s) in Scheduled Castes list are also dealt in this wing.

**(c) Atrocities and Protection of Civil Rights Wing**

This Wing is dealing with matters pertaining to atrocities caused on Scheduled Castes and cases relating to protection of Civil Rights Act, the Bonded Labour System (Abolition) Act, the Minimum Wages Act, etc. either on receipt of

complaints from individuals or from newspapers report. Evaluation studies/surveys on these subject are also conducted by this Wing.

**(d) Economic and Social Development Wing**

This Wing is dealing with matters relating to development of Scheduled Castes particularly implementation and monitoring of plan schemes of the Central/State Governments. Some of the specific items of work handled by this wing are:

- (i) Special Component Plan for Scheduled Castes;
- (ii) National Scheduled Castes Finance and Development Corporation;
- (iii) Representations/complaints made by Scheduled Castes persons regarding their grievances on matters other than atrocities, untouchability practices and service matters;
- (iv) Social Research Institute and other research bodies;
- (v) Land Reforms Acts and their implementation; and
- (vi) Education Schemes for Scheduled Castes etc.

1.22 The State Offices of the Commission works as 'eyes and ears' of the Commission. They keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Castes in the respective States/UTs under their jurisdiction and keep the Commission Headquarters informed about the developments periodically. Policy decisions taken by any State Government/UT Administration affecting the interest of the Scheduled Castes are brought to the notice of the concerned authorities for necessary modifications. The State officers are required to liaise with the State/UT Administration for taking up evaluation and

other studies to assess the working of various development programmes implemented for the welfare of the Scheduled Castes and their impact on ameliorating the socio-economic condition of the target groups. The findings of the studies are brought to the notice of the concerned State Government for taking remedial measures. The main observations are highlighted in the Commission's Report.

1.23 When asked whether offices of NCSC in different States are sufficient enough to cater to the needs of the SC population of the whole country and whether the staff provided in these offices is adequate, it has been stated that keeping in view the Scheduled Castes population of the country a proposal for creating eight new Regional Offices and upgradation of four Regional Offices of the Commission is under consideration. The staff in the Regional Offices seems to be adequate.

**1.24 The Committee note that the National Commission for Scheduled Castes functions from its headquarters located at New Delhi and from 12 State Offices located at Agartala, Thiruvananthapuram, Ahmedabad, Kolkata, Bangalore, Chandigarh, Lucknow, Guwahati, Chennai, Hyderabad, Patna and Pune. The Committee also note that there are four Wings at the headquarters of NCSC viz. Administration and Coordination Wing; Service Safeguards Wing; Atrocities and Protection of Civil Rights Wing; and Economic and Social Development Wing. The Committee further note that Regional Offices of the Commission keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Castes in the respective**

**States/UTs administrations for evaluation and assessment of the working of various development programmes and their impact on ameliorating the socio-economic condition of SCs and also bring matters to the notice of the concerned State Government for taking remedial measures. The Committee also note that a proposal for creating eight new Regional Offices and upgradation of four Regional Offices of the Commission is under consideration of the Government. The Committee are of the opinion that in the present era of rapid economic development, a good number of Scheduled Castes are still leading a miserable life either due to lack of facilities/welfare schemes not reaching them or because of atrocities perpetrated against them. The Committee, therefore, recommend that action on the proposal for creating eight new Regional Offices and upgradation of existing Regional Offices should be taken up on a priority basis. The Committee also recommend that new Regional Offices should be established in such a way that these can cover every nook and corner of the country and staff posted therein should be well versed with the problems of SCs and the relevant laws in force for their overall development.**

**(iv) Autonomy for Organisational and Financial Management**

1.25 Asked whether the Commission enjoys the autonomy for its organisational and financial management or is it dependent upon the Ministry concerned, it has been informed that the Commission has powers of the Ministry of the Central Government under the Delegation of Financial Powers Rules, 1978; the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil

Services (Leave) Rules 1972; the Central Civil Services (Joining Time) Rules, 1979 and the General Provident Fund (Central Services) Rules 1960, Contributory Provident Fund and similar other Rules, except in the following matters:

- (a) creation of posts;
- (b) re-appropriation of funds from one head to another;
- (c) purchase of vehicles; and
- (d) permitting any Officers of the Commission to participate in seminar, conference or training abroad.

The Commission has the power to regulate its own procedure.

1.26 In reply to a query as to what is the provision for direct financial allocations and power to appoint its own personnel, the Committee have been informed that the Commission projects its requirements and adequate provision is made in budget estimates on Non-Plan side. An amount of Rs. 658 Lakh has been shown as Budget Estimates for the year 2007-08. However, as per outcome budget of Ministry of Social Justice and Empowerment for 2008-09, an amount of Rs.765 lakh has been shown as Budget Estimates for the year 2008-09.

1.27 The Committee have also been informed that the Commission is competent to make appointments to the post of Research Officer, Senior Investigator/Investigator and Secretarial staff of the State Offices by direct recruitment as well as on deputation/absorption basis through Union Public Service Commission or Staff Selection Commission.

1.28 On being asked whether lack of any provision for direct financial allocations and power to appoint its own personnel has so far been major handicap in regard to

independent functioning of the Commission, the Ministry in their post evidence note have informed that the Department of Expenditure, Ministry of Finance has not agreed to the proposal of having a separate Demand for Grants for the Commission. In regard to giving power to the Commission to appoint its own personnel, it has been stated that the Commission is competent to make appointments to the posts as stated in para 1.27 above.

1.29 Earlier while deposing before the Committee, the Secretary, Ministry of Social Justice and Empowerment had stated in this regard:

“This issue has been raised whether the Commission should have a Demand for Grant of its own or whether it should continue to be as a part of the Demands for Grants of the Ministry of Social Justice and Empowerment. The matter has been examined by the Department of Expenditure and in fact, the Secretary, Expenditure has already replied to this matter by his letter dated 15.01.2007. This letter has been addressed to the National Commission only with a copy to the Ministry and in that the view is that within the demand of the Ministry, the separate Budget head for the Commission has been provided under which the non-plan funds are provided and if a view is taken that plan fund is provided then that can be done. The same thing is being done for the Finance Commission, for the National Human Rights Commission etc.

**1.30 The Committee note that Commission has powers of the Ministry of the Central Government under the Delegation of Financial Powers Rules, 1978, the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil Services (Leave) Rules 1972; the Central Services (Joining Time) Rule, 1979; the General Provident Fund (Central Services) Rules, 1960, Contributory Provident Fund and similar other Rules. The Committee, however, regret to observe that the Commission does not have full autonomy in regard to financial and administrative matters and has no powers in matters**

relating to creation of posts, reappropriation of funds from one head to another; purchase of vehicles; and permitting officers of the Commission to participate in Seminars, Conferences or Training abroad. The Committee are also dismayed by the fact that the Commission, which has been given statutory status and powers of the Ministry of Central Government in certain matters, has to project its requirements to the Ministry of Social Justice and Empowerment for provision to be made in Budget Estimates. The Committee regret to observe that the proposal for separate Demands for Grants for NCSC has also not been agreed to by the Ministry of Finance (Department of Expenditure). The Committee wonder as to why the Ministry of Finance (Department of Expenditure) have objected to proposals for separate Demands for Grants for the Commission and allowed to have only Budget Head within the Demands for Grants for Ministry of Social Justice and Empowerment. The Committee are distressed that even the statutory status does not entitle NCSC to have a separate entity. The Committee are of the firm opinion that when it was decided to bifurcate NCSCST, it was never envisaged that NCSC would function as a part of the Ministry of Social Justice and Empowerment. If it was so, there was no need to bifurcate the erstwhile Commission into two separate statutory bodies. It could have continued to function as a non-statutory body as earlier. NCSC would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters.



**1.31 After having considered all the facts, the Committee are of the strong view that only limited administrative and financial powers have been given to the NCSC by making it a part of Ministry of Social Justice and Empowerment. The Committee, therefore, recommend that full administrative and financial powers should be given to NCSC so that it may not remain dependent on the Ministry of Social Justice and Empowerment for every piece of proposal having financial implications. The Committee are of the view that NCSC is an independent statutory body and it has every right to have its own Demand for Grants in a realistic manner. The Committee would like to be apprised of the reasons adduced by the Ministry of Finance for rejecting the proposal for separate Demand for Grants for NCSC. Keeping in view the magnitude of the functions and duties assigned to NCSC, the Committee also recommend that a fresh proposal should be sent to Ministry of Finance for creating a separate Demand for Grants for NCSC on the lines of other constitutional bodies such as Election Commission, Union Public Service Commission, etc. as it is essential for the independent functioning of the Commission. The Committee may also be apprised of the outcome within three months.**

**(v) Appointment of Staff**

**1.32 The procedure for appointment and regulation of staff in the Secretariat of the National Commission for Scheduled Castes is as under:-**

- Secretarial staff: The posts of Secretary /JS /Director/ Deputy Secretary are filled under Central Staffing Scheme by DOP&T. The staff at the level of Under Secretary, Section Officer, Assistant, UDC, LDC, PPS, PS, Steno and

PA are filled up by DOP&T and are borne on the strength of the Ministry of Social Justice and Empowerment (SJ&E).

- Joint Cadre posts: Director, Deputy Director and Assistant Director are to be filled up by the Ministry of SJ&E as per their Recruitment Rules.
- All other officers/ officials are recruited and regulated by the NCSC through the process of direct recruitment as well as on deputation/ absorption basis as per Recruitment Rules.
- Co-terminus staff of Chairperson, Vice Chairperson and Members are also appointed by the NCSC.

1.33 The details of staff strength of NCSC, have been furnished as Secretariat Staff (Appendix I) and State Offices (Field Offices) and Joint Cadre Posts (Appendix II). According to this, the sanctioned strength of all the officers and staff comes to 245 and its position as on 1.1.2007 was 189.

1.34 Dr. Suraj Bhan, the then Chairman, NCSC while presenting the First Annual Report (2004-2005) to His Excellency, the President of India vide his D. O. had inter-alia stated that the posts in the personnel sections of the Chairman as well as Vice-Chairman have not been created. He had further stated that the Secretariat of the Commission has never been functioning with full strength even after bifurcation of the erstwhile National Commission for SCs and STs and several posts are lying vacant against the sanctioned posts.

1.35 During evidence the Secretary, Ministry of Social Justice and Empowerment stated:-

“.... As per the material which we have submitted before this Committee on 01.01.2007, total number of filled up posts is 189. As on 01.10.2007 this has increased to 192. Now this has further gone up to 196. So, there is a marginal improvement. These personnel are of different categories and they are also recruited. Then, there are also posts which are filled up out of different sources. One major source is Central Staffing Scheme of the Government of India which means the Secretary, the Joint Secretary, the Director, the Deputy Secretary, etc. The second source is the CSS cadre for Central Secretariat officers which means the Under Secretary and other ministerial staff. Third are the joint cadre posts which are basically the technical personnel, the research personnel and this cadre is managed as per the Recruitment Rules made by the Ministry, together with its own officers and with the officers of both the Commissions – the SC Commission and ST Commission. Apart from that, there are personnel who are appointed by the Commission itself. Now, this matter of the posts lying vacant has been brought to the notice of the Ministry by the Commission on various occasions and the Ministry is seized of the problem. I would also like to submit before this esteemed Committee that the matter has received attention at the highest level in the Government, including DoPT and up to the level of Prime Minister.... However, I am happy to submit before this esteemed Committee that as a result of our focused attention and concentrated measures, there have been some improvements. One of the basic difficulties which the Commission had been experiencing was of having requisite office staff in their functioning because without the office staff, they cannot do their basic work which they are expected to do. There were posts of senior officers, UDCs, Assistants and LDCs – all of them were not filled up and we were experiencing a constraint on that account. I am happy to submit before this Committee that these problems have been resolved... The posts of Section Officers, the posts of Assistants and UDCs – all of them have been filled up. In filling up the posts of LDCs, there was a little problem because in the Government, it is a dying cadre. So the Department of Personnel expressed its inability that they cannot give any staff. The Commission’s view was that in order to do the work they need the personnel. So, in some form the personnel have to be provided and therefore the Ministry has already approved for Data Entry Operators so that they can outsource them and they can appoint the people who know computer operations and then they can do the work. There is a request from the Commission that this may not be a

regular solution and we should consider the proposal to have a separate cadre for the Lower Division Clerks only for the purposes of the Commission”.

1.36 While clarifying filling up of posts in Commission, the Secretary, Ministry

*inter-alia* mentioned certain problems being faced by the Commission as under:

“Another problem which our Commission was facing was in research personnel because these are the basic personnel who are our own people and they are supposed to do the basic research work. They had a problem of filling up Assistant Directors. These posts have to be filled up by promotion. While taking up matters of regular promotion which require certain procedural formalities to be completed, we have already done the promotions on ad-hoc measure and the persons have already been posted.

However, I would be failing in my duty if I also do not share with this esteemed Committee certain problems which we still need to resolve. There are certain posts like the post of DIG. This post of DIG has to be filled up by an IPS Officer and the Ministry of Home Affairs is the concerned Ministry. They have to give a panel of officers to the Commission and once they give it, the Commission would be able to fill it up and the action in this regard is being taken. But this post has, so far, not been filled up. We are in regular touch with the Ministry of Home Affairs in this regard.

There is another post which has to be given to us by the Department of Personnel and that is the post of Deputy Secretary or the Director. This matter has been reviewed by the Secretary, Department of Personnel on the meeting held on 3<sup>rd</sup> August, 2007. They are in consultation with us so that they can send a panel of names to the Commission and then the Commission makes the decision. That also is in process.

Then, there are some posts which are isolated posts and for that there has to be recruitment rules and those posts have to be filled up. For example, there is the post of Law Officer. This is lying vacant. The Commission has advertised this post in the Employment News on 4<sup>th</sup> August, 2007. They have already got applications. They are processing them and accordingly appointment can be made.

Similarly, there is another post of Librarian. About that also, they are going to take the same steps for advertising and for filling up that post. Then, there are two posts, namely Assistant Director (Programming) and Assistant Public Relations Officer. For these two posts, Recruitment Rules have not been formulated. The Commission has given us Draft Recruitment Rules and we are taking action on that. At the same time, as per the decision taken in the meeting taken by the Secretary, Department of Personnel, we have gone to the Union Public Service Commission requesting them for a one time permission to us to make the appointment till the rules are framed.

Now, about the question of further strengthening of the staff, this matter has already been raised at various points of time and in the Government a view which has been taken by the Department of Expenditure is that in this matter there have to be a report of the Staff Inspection Unit. Once they justify, then additional posts can be created. This is broadly the position on the question of strengthening of the staff. My only submission is that with the opening of these new State Offices, it should help us to deal with the matter. Then, with the filling up of these key posts it should also help us to deal with the matter”.

1.37 When asked when all those posts would be finalised, the Secretary, Ministry stated:

“For instance, about the post of DIG, there is a basic problem. So I cannot give any assurance before the Committee because it will not be possible for me to get it fulfilled. The basic point is that somebody has to come there. Some officer has to come there. Now, we have two options. We have requested the Ministry of Home Affairs to give us a panel of officers and we have written directly to the State Governments to see if anybody is interested to come. We have also requested our Commission that if they have identified any particular officer who is willing to come, we will be able to focus that point, but then somebody has to be willing to come”.

1.38 In reply to a query whether it is a question of willingness of a person to come and join, the Secretary, Ministry replied:

“The point is, the Ministry of Home Affairs has to give us one person for that purpose”.

1.39 When the Committee pointed out that if order is given, they have to follow that order, the Secretary, Ministry responded:

“In fact we would value the intervention of this esteemed Committee in this regard. The point you are making is absolutely well taken. It will strengthen our hands”.

1.40 When asked about the reasons for providing officers in various categories of posts in NCSC by DOP&T and Ministry of Social Justice and Empowerment and whether the Government envisages to give full powers to NCSC to recruit their own

personnel in all categories of posts in near future, the Ministry in their reply have stated that under the Central Staffing Scheme and the Centralized Cadre Management of CSCS, CSSS and the CSS, staff to the headquarters of the Commission is to be provided by Department of Personnel and Training (DoPT) through the Ministry of Social Justice & Empowerment.

1.41 In reply to a question whether the existing sanctioned strength is adequate to meet present requirement of the Commission, the Committee have been informed that the Staff Inspection Unit (SIU) of Department of Expenditure has been requested to make assessment of staff strength of the Commission. After completion of this exercise the requirement of the staff of the Commission would be known. At present most of the posts of the Commission are filled up excepting a few for which appropriate action has already been initiated. In addition, the following 10 (Ten) posts in various grades have been created in the office of Dr. Buta Singh, Chairman, NSCS, on co-terminus basis : Private Secretary (1), Additional Private Secretary (2), Assistant Private Secretary (2), Second PA (1), LDC (1) and Peon (3).

**1.42 The Committee note with concern that the procedure for appointment and regulation of staff of the Secretariat of NCSC is quite complicated. The Committee note that some posts of Secretariat staff such as Secretary/Joint Secretary/Director/Deputy Secretary are filled up under Central Staffing Scheme by DOP&T; the staff at the level of Under Secretary, Section Officer, Assistant, UDC, LDC, PPSs, Steno and PA are filled up by DOP&T and are borne on the strength of Ministry of Social Justice & Empowerment, while Joint Cadre posts of Director, Deputy Director and Assistant Director are filled**

up by the Ministry of Social Justice & Empowerment as per their Recruitment Rules. The Committee also note that all other officers/officials including co-terminus staff of Chairperson, Vice-Chairperson and Members are recruited and regulated by the NCSC through the process of direct recruitment as well as on deputation/absorption basis, as per Recruitment Rules.

1.43 The then Chairman, NCSC had expressed his concern for not creating the posts in the personnel section of the Chairman and Vice Chairman in its first Annual Report (2004-05). It had also been mentioned that the Secretariat of the Commission has not been functioning with full strength even after bifurcation of the erstwhile NCSC and that several posts were lying vacant against the sanctioned posts. The Committee, however, note that the Ministry have since created ten posts in various grades in the office of Chairman, NCSC on co-terminus basis and that out of 245 sanctioned posts of all the officers and staff, the number of filled up posts as on 01.10.2007 was stated to be 196. During evidence, the Secretary, Ministry of Social Justice and Empowerment had submitted that the Commission was facing problems in filling up certain posts like LDC, Assistant Director in Research, DIG, Law Officer, Librarian, Assistant Director (Programming) and Assistant Public Relations Officer. The Committee are constrained to point out that delay in filling up all these posts is due to the multiplicity of cadre controlling authorities and that for certain posts the Commission has to be fully dependent on other Ministries. Had the Commission been given an independent mandate to choose its own personnel, such problems in filling up

posts would not have occurred. The Committee are distressed that the post of LDC cannot be filled up just because it is a dying cadre whereas the work profile in Commission requires their service according to submission made during evidence. Similarly, the post of DIG is lying vacant as Ministry of Home Affairs has not provided the incumbent for the post. Since the post of DIG has been created in the Commission with a specific purpose, the Committee strongly recommend that the Government should urgently fill up this vacant post. The Committee also recommend that other vacant posts like that of Law Officer, Assistant Director (Research), Assistant Director (Programming) etc. should also be filled up at the earliest and in case of isolated posts, recruitment rules should be framed within a stipulated time. The Committee would also like to know the outcome of the assessment made by Staff Inspection Unit (SIU) of Department of Expenditure regarding staff strength of the Commission and the future course of action proposed to be taken by the Government in this regard.

1.44 The Committee are of the strong view that since NCSC has been constitutionally given an independent mandate to safeguard the interest of SCs, it should have an independent entity and powers so that it may not have to depend on other Ministries/Departments. The Committee are also of the view that unless the people working for this authority have a sense of belonging, they will not be able to give their best to the institution. The Committee, therefore, impress upon the Government to initiate action to create a separate cadre for NCSC and its all Regional Offices at the earliest so



**that the objective of NCSC is achieved through the staff working therein. The Committee would like to be apprised of the action taken in this regard within three months of the presentation of this report to Parliament.**

## CHAPTER – II

### CONSTITUTIONAL PROVISION FOR LAYING OF REPORTS

#### (i) Submission of Reports

2.1 Clause (6) and Clause (7) of Article 338 of the Constitution provide provision for laying of reports of NCSC as under:-

**Clause (6)** The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

**Clause (7)** Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

2.2 The Committee have been informed that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had submitted 7 Annual Reports and one Special Report out of which 6 Annual Reports and the Special Report had been laid in the Parliament as indicated below:

Sl. No.	Reports	NCSCST submitted report on	Date of submission of report in Lok Sabha	Date of Submission of report in Rajya Sabha
1.	1 <sup>st</sup> Report 1992-93	15.08.1994	28.07.1998	27.07.1998
2.	2 <sup>nd</sup> Report 1993-94	09.7.1996	28.07.1998	27.07.1998
3.	3 <sup>rd</sup> Report 1994-95 & 1995-96 (combined)	02.02.1998	13.03.2000	24.04.2000
4.	4 <sup>th</sup> Report 1996-97 & 1997-98 (combined)	25.04.1998	13.03.2000	24.04.2000
5.	5 <sup>th</sup> Report 1998-99	26.02.2001	17.05.2002	17.05.2002
6.	Special Report 1998	22.01.1998	28.07.1998	28.07.1998
7.	6 <sup>th</sup> Report 1999-2000 & 2000-01 (combined)	16.11.2001	23.12.2004	20.12.2004
8.	7 <sup>th</sup> Report 2001-2002	17.02.2004	-----	-----

In addition to above, the Commission had submitted three Special Reports in 2000. The same were sent to the State Government of Bihar, Uttar Pradesh and Madhya Pradesh to take appropriate action under Article 338(7) as they concerned them only. The National Commission for Scheduled Castes has submitted one Annual Report for the year 2004-05 in July, 2006 and one Special Report for the period 1.4.2006 to 30.9.2006.

2.3 To a query whether the mandate of the Commission has been adhered to in practice since the Constitution clearly provides for the presentation of the reports of the Commission annually, the reply of the Ministry/Commission was in negative. When asked about the reasons for anomalies and inconsistencies in presenting the reports as also reasons for the violation of Constitutional provision for presentation of reports annually, the Ministry in their post evidence note have stated that due to bifurcation of National Commission for Scheduled Castes and Scheduled Tribes in two Commissions there was a gap between the taking over of the new Commission from February, 2004 onwards and therefore the reports could not be presented because the Commission had not completed sufficient time to give its Annual Report. As soon as the NCSC completed its work related to preparing of the Annual Report, they presented the First Annual Report on 13th July, 2006 covering the activities for the Financial Year 2004-05. Efforts are being made to present the Annual Report of the Commission for the year 2005-06 and 2006-07 in due course of time.

2.4 During evidence the Secretary of the Ministry clarified in regard to delay in submission of Reports:

“.....about the submission of the reports as we have furnished in our material before this esteemed Committee, the erstwhile Commission submitted seven Annual Reports and one Special Report. Now all those reports have been quite regular except there was a gap of two years, in the year 2002-03 and 2003-04. That is true. But I think, this took time just because at that time the Commission was reconstituted. After the new Commission has come, they have already given a report of 2004-05. They have also given a Special Report for a part of 2006; and now the Commission is working in full strength. I think, hon. Chairman mentioned that it takes a lot of time. Before the Action Taken Report, they get formulated, before they are laid on the Table of the Parliament. That is true. They take a lot of time. The Commissions take time to prepare its report because it is a massive exercise and it requires consultations. They cannot act arbitrarily. They have to involve various States in the consultative process; they have to involve various agencies. It is very necessary for the credibility of their reports because they cannot make arbitrary recommendations. By the Ministry also, I have seen, the average time taken is about two years. But the reason is that before we give the Action Taken Report on each point for laying the same on the Table of the Parliament, we have to go to the concerned Ministries, concerned PSUs; and sometimes we have to go to the State Governments; and all that takes times”.

2.5 When asked about the time of sending of First Annual Report (2004-05) of NCSC to different Ministries and their response thereto, the Committee have been informed that the First Annual Report (2004-05) of NCSC was circulated to different Ministries in November; 2006 and they have received the response from Ministry of Rural Development, Ministry of Urban Development, Ministry of Labour & Employment and Department of Personnel and Training. It has also been stated in their post evidence reply that the response from the Ministry of Human Resource Development and Ministry of Panchayati Raj is still awaited despite their reminder sent in the first week of January, 2008. It has also been stated that as and when the comments from all the Ministries are received, the report will be submitted to the Parliament.

2.6 It was pointed out by the Committee that reports of the Commission are laid in the Parliament so that it could be taken up for discussion. When queried whether the Ministry of Social Justice and Empowerment ever tried that discussion on the report of the Commission be taken up in the Parliament, it was replied by the Secretary:

“The Parliamentary business is regulated as per the Parliament’s procedures and..... when a report is laid before the Parliament, the esteemed Members of Parliament can always ask for any discussion, they can always raise questions, etc. This is what we have always been doing”.

Thereupon, the Committee clarified that the Ministry should take interest in seeking discussion before the Parliament. The matter should be brought before the Business Advisory Committee by the Ministry.

**2.7 The Committee note that the report of NCSC is required to be laid in Parliament as provided in clause 6 of Article 338 of the Constitution which states that the President shall cause all such reports to be laid before each House of the Parliament alongwith Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for non-acceptance. As per provision of clause 7 of Article 338 of the Constitution, the report relating to the State Government is forwarded to the Governor of the States for similar action to be taken at the State level.**

**2.8 The Committee further note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had submitted seven regular and one special report to the President during the period of about 12 years out of which six Annual Reports and the Special report had been laid in the**

Parliament. However, nothing has been said with regard to laying of the 7<sup>th</sup> Report submitted to the President on 17.02.2004. The Committee should be apprised of the fate of that report. It has also been stated that the Commission had submitted three special reports in 2000 concerning State Governments of Bihar, Uttar Pradesh and Madhya Pradesh. After bifurcation of NCSCST, the National Commission for Scheduled Castes has submitted one Annual Report for the year 2004-05 in July, 2006 and one Special Report for the period 01.04.2006 to 30.09.2006.

2.9 The Committee regret that the first report (2004-05) of NCSC which was submitted in July, 2006 has not been laid before each House of Parliament since it has been stated that the report was circulated to different Ministries only in November, 2006 and that the response from some Ministries is still awaited. The Committee are pained to note that Ministry of Human Resource Development and Ministry of Panchayati Raj are taking long time in furnishing the comments on the report of NCSC leading to delay in laying of report in Parliament. The Secretary of the Ministry had also submitted before the Committee that the average time taken before giving action taken report for laying the same in Parliament is two years since they have to go to the concerned Ministries/PSUs/State Governments for their comments/views. The Committee, however, do not find such reasoning to be convincing in this era of rapid communication technology. The Committee are of strong opinion that due to absence of a fixed time limit for the submission of report to the Parliament after it has been presented to the President, the Ministry of Social

Justice and Empowerment cannot force other Ministries/ Departments to expedite their views/opinion alongwith memoranda of action taken on the recommendations on the report. The Committee are also of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCSC should not only submit its report annually but the Ministry should also take timely action to get the reports presented in the Parliament in a time bound manner. The Committee, therefore, strongly recommend that action to amend clause (6) and (7) of Article 338 of the Constitution should be initiated so that a time limit is fixed for presenting the reports of the NCSC in the Parliament. The Committee also recommend that the Ministry should initiate action for holding discussion on the report in Parliament by way of a Government Motion. The Committee also desire that the Government should impress upon the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament. The Committee should also be apprised about the position relating to the annual reports for the years 2005-06 and 2006-07 and desire that these reports should be presented to the President and laid in Parliament expeditiously.

**(ii) Nature and effect of recommendations of NCSC**

2.10 Under Article 338 (5) of the Constitution, the National Commission for Scheduled Castes is vested with the duty to inter-alia investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and to inquire

into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes. While investigating such matters or inquiry in specific complaints, powers of a Civil Court, trying a suit, have been given to National Commission for Scheduled Castes under Clause (8) of Article 338 of the Constitution, particularly, in respect of the following:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which the President may, by rule, determine.

2.11 In reply to a query whether the recommendations/findings given by the Commission have the same effect as that of a ruling/finding given by a Court of Law, the Committee have been informed that NCSC is a Commission and not a Court.

2.12 In regard to a query as to whether the recommendations/findings of the Commission are binding on public bodies/functionaries, it has been stated that the recommendations made by the Commission are referred to the concerned Central Ministries/Departments/State Governments for taking appropriate action on the recommendations. Annual Report of the Commission along with the action taken memorandum is laid down on the table of both the Houses of Parliament.



2.13 While deposing before the Committee, the Secretary, Ministry stated on this issue:-

“The main point which has been raised in your introductory remarks is about the enforceability of the recommendations of the Commission. You would kindly recall the framework of the Article 338 which basically envisages that this Commission is an advisory body. The Commission makes its recommendations and in consistence with the basic principle of accountability of the Executive to the Parliament, there is a provision that the reports of the Commission are laid before the Parliament. Further, there is provision that these reports are laid along with the Action Taken Report by the Executive. This is the main scheme which has been envisaged under Article 338”.

2.14 In reply to a question as to what action is taken by the Commission if their decision is not accepted/implemented by the concerned organization or authority, the Ministry in their post evidence reply have informed that the recommendations of the Commission are advisory in nature. The Commission can make the mention of such incidents in the Report to be presented to the President of India every year.

2.15 When asked while the Commission enjoys equal judicial powers as other civil courts the reason as to why its recommendations are not binding but are of advisory nature, the Ministry in their post evidence reply have stated that the Commission has all the powers of a civil court in the matter of ensuring attendance of any person, production of any document and receiving evidence on affidavits. The Commission does not have power to impose a fine or to sentence any individual. The Supreme Court in its judgment in the Indian Overseas Bank case expressed the views that the Commission's powers have been only defined as of advisory nature and the Commission has been restrained to issue any injunction or to stay any action taken by any authority or Government. The copies of the Supreme Court

judgment and the Office Memorandum No.36036/2/97-Estt.(Res.), dated 1<sup>st</sup> January, 1998 and 30<sup>th</sup> November, 1998 issued by DOP&T clarifying the position of NCSCST after the verdict are at Appendix - III. According to clarification, it has been *inter-alia* stated that the Commission has no powers to direct withholding of the operation of any order issued by the government. In this connection, the Commission vide its letter No.4/3/58.SSW II dated Nil (Appendix – IV) had clarified that there appears to be no bar on the issuing of findings and other relevant directions which are the outcome and result of detailed inquiries and investigations conducted under Article 5(a) and (b) of Article 338. While referring the clarification, DOP&T stated that the letter appears to create the impression that the Commission has powers to supersede the DOP&T's Office Memorandum of 1<sup>st</sup> January, 1998 for which, in fact powers have not been vested in the Commission in terms of Article 338 of the Constitution. Further as the Commission lacks the authority to issue directions in the nature of injunction, the aforesaid action of the Commission is clearly beyond its powers and is illegal.

2.16 During evidence the Secretary, Ministry had also elaborated:-

“You had raised one point about the Court that why can it not be binding as are the orders of a Court or decisions of a Court. Article 338, sub-clause 8 mentions that it will have all the powers of a Civil Court trying a suit, but that is limited to the procedural powers of a civil court for examining the issues and investigations. In fact, before the Supreme Court, there was a case, All India Indian Overseas Bank SC/ST Employees Welfare Association and others Civil Appeal 13700 of 1996 and I am quoting from the Court's ruling:

“All the procedural powers of a Civil Court are given to the Commission for the purposes of investigations and enquiring into these matters and that too for the limited purpose only. The powers of a Civil Court for granting injunction, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause 8 of Article 338”.

2.17 In reply to a question whether the Commission has sought more teeth for making its recommendations mandatory, it was informed that the Commission has taken up from time to time the matter with the Government for giving more powers to the Commission.

2.18 In this connection, the Secretary of National Commission for Scheduled Castes, submitted:

“As you are aware, the present structure under Article 338 severely restricts the efficacy of the Commission *per se*. Once it has been made into a recommendatory body, then the attitude of the responding organization is accordingly determined. The judgement of the Supreme Court in 1996, which was widely circulated by the Department of Personnel to all the Government offices, somehow gave the impression that the Commission has no powers to order anything. Consequently, what is happening is that it is up to the Head of that organization to determine whether it wants to accept the recommendation of the Commission or it wants to ignore it *suo motu* and for which we do not get any satisfactory reply.

From our side, we examine the witnesses, ferret out the facts and come to a conclusion and then, accordingly, send our findings to the organization for corrective action. But as per the existing structure of the things, it is for them to take the final decision in which we have no say. That is one. Now, frankly speaking, the entire Article 338 needs to be reviewed holistically by the Hon. Committee”.

**2.19 The Committee note that the National Commission for Scheduled Castes has been vested with the duty to inter alia investigate all matters relating to the safeguards provided to SCs and to enquire into specific**

complaints with respect to the deprivation of rights and safeguards of the SCs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to NCSC under clause (8) of the Article 338 of the Constitution. The Committee, however, note that the role of NCSC as a civil court is limited to that of summoning and enforcing attendance of any person, call for production of any document and examine evidence on affidavits but has no judicial power as other civil courts have. The Committee also note that the recommendations made by the Commission are referred to the concerned Central Ministries/Departments/State Governments for taking appropriate action on the recommendations but these are not binding upon them to implement those recommendations. The role of Commission as an advisory body has been stressed by the Secretary of the Ministry and admitted by the Secretary, NCSC. The verdict delivered by the Supreme Court in the Civil Appeal No.13700 of 1996 in the case of All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and others Vs. Union of India and others had justified the view of the Delhi High Court that the Commission lacks the power to issue interim order. In such a situation, the Committee are of the view that the Commission has been placed in a peculiar position as on the one hand the Commission has been given powers to investigate matters as a civil court but on the other hand its recommendations are treated as only advisory in nature. The Committee feel that NCSC has not been treated as a separate constitutional entity capable of

functioning effectively for the betterment of the SCs. It is also interesting to note that the verdict of Supreme Court had come in 1996 and it was against the erstwhile NCSCST when it was not bifurcated. The Committee would like to know whether this aspect was examined when Article 338 was being amended to have separate Commissions for SCs and STs, and if so, necessary amendments should have been suitably incorporated in the Constitution (Eighty Ninth Amendment) Act, 2003 when it was being brought. The Committee note that the Commission has been taking up the matter from time to time for giving more effective powers to it. The Committee strongly recommend that if necessary, the Constitution should be amended to provide greater powers to the Commission so as to enable it to act as an effective and independent organisation.

**CHAPTER – III**  
**INVESTIGATING AND MONITORING SYSTEM**

**(i) Investigating Procedure**

3.1 When asked whether the Commission has clearly determined the procedure and methodology of its investigation, the Committee have been informed that Rules of Procedure framed by the NCSC in the year 2004 have been published in the Gazette of India Part-II, Section 3, Sub Section (i) vide G.S.R. 573(E), dated 6<sup>th</sup> September, 2004 (Appendix V). According to the procedure provided in its Rules of Procedure, the Commission may adopt any one or more of the following methods for investigating or inquiring into the matter falling within its authority:

- (a) by the Commission directly;
- (b) by an Investigating Team constituted at the Headquarters of the Commission; and
- (c) through its State Offices.

**(ii) Monitoring and Evaluation**

3.2 Asked about the existing mechanism of personnel and processing systems of the Commission for monitoring of all the matters covered by the Constitutional provisions, laws and Government orders, the Committee have been informed that large number of complaints and grievances received by the Commission from Government servants and others, are looked into in terms of the provisions of Article

338(8). When asked to elaborate in detail, the Ministry in their post evidence note have stated that in order to monitor and evaluate the impact of development schemes, the Commission interacts with the State/UT Governments by holding State level review meetings and through field visits. For speedy investigation into complaints and prompt disposal of cases, the Commission calls for all relevant records along with concerned officers / liaison officers.

3.3 During evidence, Secretary, NCSC when asked to narrate what the Commission is doing in the existing set up *inter-alia* stated:

“In the existing system, the National Commission undertakes the review of various State Governments’ functioning and implementation of various programmes.”

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“Similarly, about scholarships, there are delays in scholarship disbursements in almost all the States. We have been recommending to the State Governments to create a revolving fund in which the money is put in the beginning of the year by the State Government and as and when it is reimbursed from the Government of India or other agencies, that is recouped, but the scholarship to the student should be disbursed at the beginning of the year. We have been making this recommendation. We have also reviewed the housing aspect. The last Chairman was advocating to various State Governments that if you do not have any land for houses for the SC and the deprived people, you buy land from the market with funds from the Public Exchequer and give houses to them. Whatever deficiencies are coming to our notice, we are documenting them and making our recommendation on them. We put them into our Annual Report and send the report to the Hon’ble President.

As regards the cases of atrocities that are coming to notice, the Commission has been taking active interest in ensuring that relief is given to them in ample measures as per the POA Act. For example, the incident of Guhana took place two years back. Dr. Suraj Bhan was the Chairman at that time, and he immediately rushed to Guhana. The administration had not given adequate compensation or financial help to the aggrieved people. He insisted on it, and the State Government completely rebuilt the damaged houses of the Scheduled Castes to the

full extent possible at their own expense. It was not limited to merely giving an amount of Rs.50,000 or Rs.1 lakh. The houses were fully rebuilt. This kind of intervention is taking place on case to case basis. Our Members go to the spot--whenever any atrocities are taking place--and make sure that whatever compensation, etc. is required to be given is given to them. Our Members go to places where there are atrocities on the harijans, and make sure that POA Act is also applied in those cases. This kind of intervention is taking place. But as far as the response of the organisation is concerned, this is a separate area, which you have rightly pointed. The hon. Members of the Committee feel that there is deficiency in performance, and we agree with it.”

3.4 In regard to techniques adopted and utilized by the Commission for evaluation of various programmes undertaken by the Government, the Committee have been informed that the Commission and its officers both at Headquarters and in the State offices participate in formulation of policies and the developmental programmes for Scheduled Castes including Scheduled Castes Sub Plan. The Planning Commission has constituted a Steering Committee on the Empowerment of SCs, OBCs and Minorities- Eleventh Five Year Plan (2007-2012) under the Chairmanship of Shri Mungerkar, Member, Planning Commission in which Secretary of NCSC is a Member. It has also been stated that the field offices of the Commission conduct evaluation studies of various programmes being implemented for the welfare of Scheduled Castes.

3.5 In reply to a query regarding efforts made by the Commission in different States/UTs for effective realization of the Constitutional mandate given to it, the Committee have been informed that the NCSC has conducted various State level review meetings in the last three years. The Commission also constituted a Committee to identify the areas of interest and to compile a list of texts in religious books containing objectionable material.



3.6 When asked about the outcome of various State level review meetings and their periodicity, the Ministry in their post evidence reply have stated that minutes of the review meetings were circulated by the Commission. However, no response has been received from any State Government so far. It has also been stated that normally one review meeting is held in two months and that the Commission has held review meeting with the State of Uttar Pradesh in the month of July, 2007 and proposes to hold review meetings with the States of Tamil Nadu, Bihar and Orissa in near future. It has further been informed that the objective of constituting a committee was for identifying areas of interest and compiling list of texts in religious books containing objectionable material in order to remove untouchability from this country. That Committee submitted its report to the Commission on 22nd February, 2007 and that the Commission has yet to take a decision on the recommendation of the Committee.

**3.7 The Committee note that to determine the procedure and methodology of its investigation, Rules of Procedure have been framed in the year 2004 and published in the Gazette of India. The Committee also note that in order to monitor and evaluate the impact of development schemes, the Commission interacts with the State/UT Governments by holding State level review meetings and through field visits. For speedy investigation of complaints and prompt disposal of cases, the Commission calls for all relevant records alongwith concerned officials/liaison officers. The Committee further note that to evaluate various programmes undertaken by the Government, the Commission and its officers both at headquarters and in the State offices**

participate in formulation of policies and the development programmes for SCs, including SC Sub Plan. The field offices of the Commission also conduct evaluation studies of various programmes being implemented for the welfare of SCs.

3.8 The Committee note that the Commission has been managing to perform despite constraints in the existing system as mentioned during evidence. The Committee note that Commission has made some observations in regard to delay in payment of scholarship. The Committee concur with the views of the Commission and recommend that the Ministry should impress upon all the State Governments to create revolving fund for disbursement of scholarship in the beginning of the year so that SC children are able to avail themselves of the same in time. The Committee are happy to note that the members of the Commission visit the spot whenever any atrocity takes place and also ensure that POA Act is applied on the cases of atrocities on SCs. The Committee recommend that the Commission should continue intervening in the cases of atrocities so that victims get proper justice as per the law. The Committee strongly recommend that there should not be any laxity in investigation relating to safeguards provided to SCs.

3.9 The Committee also note that the Commission has conducted various State level review meetings in the last three years. The Committee are deeply anguished that State Governments are not responding to the minutes of the review meetings circulated to them. The Committee strongly recommend that the Commission should pursue with State Governments for taking appropriate

**action at the earliest. In case they still persist with indifferent attitude, it is advised that Government should initiate action to amend the Constitution so that State Governments are made accountable for their lapses in regard to matters concerning welfare of Scheduled Castes people.**

**3.10 The Committee note that the Commission has also constituted a Committee to identify the areas of interest and compile a list of texts in religious books containing objectionable material in order to remove untouchability, and the Committee has since submitted its report to the Commission on 22<sup>nd</sup> February, 2007. The Committee should be apprised about the course of action taken by the Commission on this report.**

**CHAPTER IV**  
**MISCELLANEOUS**

**(i) Publicity about working of NCSC**

4.1 The Committee have been informed that the Commission has published some leaflets for handling of atrocity cases. The NCSC has also recently brought out a monthly magazine namely; "Anusuchit Jati Vani". The Commission has already published a booklet on RTI and Yellow Hand Book (2005) giving the entire information/data. The Commission has also launched its web-site more than one year ago and has established a Toll Free Telephone number 1800 11 8888.

4.2 When asked whether the said information/material are available in regional languages and distributed free of cost as well as the mode of media adopted to ensure that information reaches the remotest of the remote villages inhabited by SC population, the Ministry in their post evidence reply have stated that the information is available in Hindi and English. Wherever possible, the State Offices of the Commission do translate the same and do give the regional language version to the applicants. Information about the Commission reaches the Scheduled Castes population through press conferences with print and electronic media. The former Chairman of the Commission had written a letter to all the Panchayat leaders, MLAs, MPs and others requesting them to propagate awareness about the special protection rights given to the Scheduled Castes. This letter was given wide publicity by State Governments. Information has percolated to the SC population of the country.

**4.3 The Committee note that NCSC has published some leaflets for handling atrocities cases. They have also brought out monthly magazine namely “Anusuchit Jati Vani” and published a booklet on RTI and Yellow Hand Book giving the information/data. They have also launched their web-site more than one year ago and established a Toll Free Telephone number. The Committee further note that the information is available in Hindi and English and wherever possible the State Offices of the Commission translate the same in the regional language. The Committee strongly recommend that the material should be made available at all times in regional languages for wider dissemination. The Committee note that information about the Commission reaches the Scheduled Castes population through press conferences with print and electronic media which is not enough. Many Scheduled Caste people are still living in remote areas where the media cannot reach; they cannot read or write and are still in dark about their rights and the safeguards available to them. The Committee would, therefore, recommend that NCSC should send teams to remote areas not only to monitor and evaluate the working of safeguard physically but also to create an increased level of awareness among SCs. The Committee would also like all regional offices to make every effort to see that all Scheduled Caste people living in their regions are made aware that NCSC is the custodian of their rights and could be approached for safeguarding their rights and interests.**

**(ii) Role of NGOs working for SCs**

4.4 When asked to provide a list of NGOs working in areas predominantly inhabited by SC population who have been given funds along with amount of fund during the last three years for different purposes, the Ministry have stated that no NGO is working under NCSC. However, the website of NCSC shows a list of Non Governmental Organisations in different States that received assistance under the scheme of Grant-in-Aid to voluntary organisations working for Scheduled Castes during the year 2004-05.

**4.5 The Committee are disturbed to note that the website of NCSC reflects List of Non Governmental Organisations in different States that received assistance under the scheme of Grant-in-Aid to voluntary organisations working for Scheduled Castes during the year 2004-05 whereas the Ministry in their reply have stated that there is no NGO working under NCSC. The Committee take serious note of the fact that the Ministry did not explain that NGOs are in receipt of funds. The Committee should be provided with the details of schemes under which Grants-in-Aid are given to NGOs/ voluntary organisations alongwith funds disbursed during the last 3 years. The Committee should also be apprised whether the credibility of the Voluntary Organisations/NGOs is verified by them before releasing any funds to them. The Committee recommend that utmost care should be taken to choose only those NGOs/Voluntary Organisations which are genuinely working for the welfare and cause of Scheduled Castes people. The Committee recommend that NCSC should also examine whether the fund granted to NGOs during the**

**last 3 years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of Scheduled Castes people.**

**(iii) Allocation of plan funds**

4.6 In reply to a question about the role of the Ministry of Social Justice and Empowerment as well as NCSC with regard to allocation of plan funds in proportion to the SC population, their utilization and monitoring thereof, the Ministry, in their note, have stated that allocation of Plan funds is made by the Planning Commission. Instructions regarding earmarking of funds under the Scheduled Castes Sub Plan (SCSP) in proportion to Scheduled Castes population have been issued from time to time. The Ministry also reviews the performance in formulation and implementation of SCSP.

4.7 When the Ministry and the Commission were asked during evidence as to what is being done in regard to Special Component Plan i.e. earmarking of proportional amount of Plan funds for SCs the Secretary, NCSC stated:

“You raised the question that the allocation of funds in a State should be in proportion to the SC population in that State. This recommendation is being reviewed in every State which the National Commission reviews. In some of the States, we found that the allocation was not in accordance with the population. We pointed it out. These facts have gone into the last two reports which have been submitted to the Hon. His Excellency the President.”

4.8 The Secretary, Ministry of Social Justice and Empowerment responded:

“As regards a very very valuable intervention made by our esteemed member about the Special Component Plan, which is the basic strategy for the socio-economic

development of our target group, it is an absolutely well taken point. The States are required to provide the funds in their Special Component Plan in proportion to the population of the SCs in the States. They are not only to provide it, but also ensure expenditure. This is the key point, and on that basis the Ministry also releases Special Central Assistance. In fact, this point is monitored by the Planning Commission and the Ministry is also associated with it. It would be a very humble submission on my part that there is improvement though it is not anywhere a picture where we can be complacent. In several cases I can personally submit that because of this monitoring there is an improvement. For instance, in Orissa, they have already taken steps. I was recently in Andhra Pradesh where I had discussions with all the State officials, and I pointed it out that they are spending a lot of money from the State funds for the SC welfare, but they are not making the allocations in the SC Plan as per the population in the State and that they are not spending the whole thing also. I myself submitted it. This is a major problem there. Andhra Pradesh is a relatively better performing State. They have informed me that they are ceased of this problem, and they have already constituted a Committee under the Chairpersonship of the Chief Minister to review the whole thing. Hopefully, something should come out of it”.

4.9 The Committee pointed out that MPs belonging to SCs and STs had met the PM and requested him to give Rs.1 lakh crore i.e. 15 percent and 8 percent earmarked for the SCs and STs in the Annual Budget. The Committee also pointed out that the Central Government presents the Budget, but it does not give any consideration for allocation of 15 percent and 8 percent to SCs and STs, respectively. To this, the Secretary of Ministry responded:

“Sir, as I submitted, both from the State sector as well as from the various Central sectors are monitored by the Planning Commission in association with the Ministry, and the point that the hon. Member is saying is absolutely well taken and there cannot be any two views about it. The Ministry is making efforts, and we would also value a recommendation on this point from this esteemed Committee. I am saying this because it will go towards furthering the common end that all of us are trying to achieve”.



4.10 The Committee note that allocation of Plan funds is made by the Planning Commission and instructions regarding earmarking of funds under the Scheduled Castes Sub Plan (SCSP) in proportion to Scheduled Castes population have been issued from time to time. The Committee also note that the States are required not only to provide the funds in their Special Component Plan in proportion to the population of the SCs in the States but also to ensure its expenditure. Although the Ministry and NCSC review the performance in formulation and implementation of SCSP in various States, the Committee observe that the Ministry cannot force the States to earmark the SC Plan fund according to their population. At the most, the Ministry can offer incentive in the form of Special Central Assistance on the actual expenditure incurred for the welfare of SCs under SCP Fund. On the other hand, the Committee observe that Planning Commission are in a better position to persuade the States to allocate SCP fund according to SC population in States. The Committee also note that the Planning Commission monitors schemes of both States and Central Governments. The Committee, therefore, recommend that Planning Commission should be advised to finalise the Annual Plans only if State Governments have earmarked funds for SCP according to SC population of each State so that expeditious economic development of SCs is undertaken. While the Committee appreciate that the State of Orissa has already taken steps in allocating fund as per SC population as submitted by Secretary, Ministry of Social Justice and Empowerment, the Committee are surprised that in Andhra Pradesh, where lot of money is being

spent from the State funds for the welfare of SCs, the State Government had not made allocation in their SC Plan as per SC population in the State. The Committee, therefore, urge the Ministry, NCSC and Planning Commission to advise the State Government of Andhra Pradesh for proper allocation of funds as per SC population in the State and utilization of the same for the development of SCs.

4.11 The Committee note that a request had been made to the Government to allocate Rs.1 lakh crore for SCs and STs in the Annual Budget. It appears that the Government are not considering this proposal seriously. The Committee, therefore, strongly recommend that Union Government should earmark 15 percent and 8 percent of their Annual Budget for the development of SCs and STs, respectively.

New Delhi;  
February, 2009  
Magha, 1930(Saka)

**RATILAL KALIDAS VARMA**  
Chairman  
Committee on the Welfare of  
Scheduled Castes and  
Scheduled Tribes.

**Staff strength of the National Commission for Scheduled Castes****Secretariat Staff**

S. No.	Name of the post	Position of staff in NCSC after bifurcation on 19.02.2004		Position as on 1.1.2007	Appointing Authority
		Sanctioned strength	In position		
1.	Secretary	1	1	1	DoPT
2.	Joint Secretary	1	1	1	
3.	DIG	1	1	-	NCSC
4.	Deputy Secretary/Director	1	1	1	DoPT
5.	Under Secretary	1	1	2@	
6.	Section Officer	2	2	4@	
7.	PPS	1	1	1	
8.	PS	2	-	2	
9.	Librarian	1	1	-	
10.	Asstt. Director (Programming)	1	-	-	
11.	Assistant PRO	1	-	-	DoPT
12.	Asst. Director (OL)	1	1	1	
13.	Law Officer	1	-	-	
14.	Sr. Hindi Translator	1	1	1	
15.	Assistant	3	3	1	
16.	UDC	4	2	2	
17.	LDC	7	6	3	
18.	PA	3	1	2	NCSC
19.	Steno	5	3	3	
20.	Receptionist	1	1	-	
21.	Accountant	1	1	1	
22.	Staff Car Driver	7	7	7	
23.	Dispatch Rider	1	7	1	
24.	Gestetner Operator	1	1	1	
25.	Senior Peon	2	1	2	
26.	Drafter	2	2	2	
27.	Peon	17	2	16	
28.	Safai Karamchari	1	12	1	
	Total	71	54	56	

## Appendix – B

**Staff Position of National Commission for Scheduled Castes****State Officers (field Officers)**

S. No.	Name of the post	Position of staff in NCSC after bifurcation on 19.02.2004		Position as on 1.1.2007	Appointing Authority
		Sanctioned strength	In position		
1.	Office Suptd.Secretary	8	7	7	NCSC
2.	PA	8	8	5	
3.	Steno	3	2	1	
4.	UDC	10	10	9	
5.	LDC	20	16	16	
6.	Staff Car Driver	12	12	12	
7.	Daftary	9	9	9	
8.	Peon	20	17	16	
9.	CCF	13	12	13	
	Total	103	93	88	

**Joint Cadre Post**

S. No.	Name of the post	Position of staff in NCSC after bifurcation on 19.02.2004		Position as on 1.1.2007	Appointing Authority
		Sanctioned strength	In position		
1.	Director	10	10	4	M/O SJ&E
2.	Deputy Director	05	05	04	
3.	Assistant Director	10	08	06	
4.	Research Officer	10	09	09	
5.	Senior Investigator	17	10	13	NCSC
6.	Investigator	19	14	09	
	Total	71	54	45	

## Appendix – C

**A.I.I.O Bani .v. Union of India & Ors. [A.M. Ahmadi, CJI.]**

D.S Mehra, Advocate for the Respondent No. 1

CONSTITUTION OF INDIA, 1950

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JT 1996 (10) S.C. 287

All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Association & Ors.

Union of India & Ors.

Civil Appeal No. 13700 of 1996  
[From the Judgment and Order dated 17.5.93 of the Delhi High Court in C.W.P.No. 1362 of 1993]

A.M. AHMADI CJI,  
& S.P BHARUCHA, JJ  
Dt. 31-10-1996

APPEARANCES

Mr. A.K. Nambiar, Senior Advocate Mr. S.C, Paul, Mr. J.D. Jain, Mr. R.K. Azad, Mr. Santosh Singh, Advocates with him for the appellants.

Mr. S.K. Bisaria, Advocate, for the Respondent No. 4

Mr. R. Mohan and Mr. R. Nedumaran, Advocates for the Respondent No. 3.

Ms. Bina Tamla, Advocate for Mr.

Article 338 – Clause 5 to 8 National Commission for Scheduled Castes & Scheduled Tribes – Power of Commission – Held the Commission under Article 138 Clause 8 have powers of Civil court while investigating or inquiring into any matter in clause 5(b) – No powers in Commission and Civil Court of granting injunction whether temporary or permanent – Commission lacks the power or authority to issue an order like 4<sup>th</sup> March, 1993 Order being for want of jurisdiction – vacate High Court justified in its view.

HELD

Interestingly, here, in clause 8 of Article 338, the words used are “the Commission shall..... have all the powers of the Civil Court lying a suit.” But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) of sub-clause (b) of clause 5.” All the procedural powers of a Civil Court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a Civil Court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inhaled or derived from a reading clause 8 of (Article 338 of the Constitution.

The Commission having not been specifically granted any power to issue interim injunctions, lacks the authority to issue an order of the type found in the

## JUDGMENTS TODAY

S.C. 206

Letter dated March, 1993, the order itself being bad for want of jurisdiction, all other questions and considerations raised in the appeal are redundant. The High Court was justified in taking the view it did, the appeal of dismissed [Para 11 & 12]

Cases Referred:

1. Dr. Balliram Waman Hiray V. Justice B. Lentin and Other Jt 1988 (4) S.C. 265 = (1988 4 SCC 919. [Para 10]
2. M.V. Rajwade V. Dr. S.M. Hassan, AIR 1954 Nagpur 71. [Para 9]

AHMADI, CJI

1. Leave granted.

2 By a letter No. 9/D/SCTC/M(S)/93, dated March 4, 1993, the National Commission for Scheduled Castes and Scheduled Tribes (hereinafter referred to as the Commission) directed the Executive Director or the Indian Overseas bank, the respondent No. 3, thus:

No. 9/D/SCTC/M(S)/93

Dear Shri K. Subramanian,

Please refer to the Commission letter No.9/D/SCTC/M(S)92 DATED 18<sup>TH</sup> Feb. 93 in the matter of contravention of Government Directives relating reservation for SC/ST in Indian Overseas Bank and Other matters adversely affecting their interests.

The commission had desired the reply of Bank within 7 days of said letter. It was not reached the commission till date.

In view of the prima facie examination of the matter and considering the fact that the Bank is reportedly going ahead will the promotion process, the commission, in exercise of the powers conferred upon it under section 8 of the Constitution (Sixty-firth amendment) Act, 1990 hereby directs the Bank to stop the promotion process pending further investigation and final verdict in the matter.

The commission also direct for requisitioning If all records in custody of bank relating to the said matter be produced before it. For this purpose you are requested to ascertain a date from my office.

Please advice compliance.

Thanking you,

Yours faithfully

Sd/-

(N.SAMMAIAH)  
MEMBER

3. It is a fact that when the letter was issued the respondent No. 3 was actually going through the process of deciding on promotion of various employees at various levels. On March 4, 1993 when the letter was written, the respondent No. 2 was perhaps not aware of the reply addressed to it by respondent No. 3 on that very day meeting all the queries raised in the letter dated February 18, 1993, which letter was perhaps written on the representation made by the President of the All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Welfare Association, the appellants before us, alleging grave injustice to its members in matters of injustice to its members in matters of promotion. In view of the letter of respondent No. 2 quoted above, respondent

No. 2 quoted above, respondent No. 3 issued a letter on the same day staying the promotion process. On March 6, 1993 the Indian Overseas Bank Officers Association, the respondent No. 4, and respondents Nos. 5 to 8 who were candidates for selection for promotion filed a Writ Petition (Civil No. 1362 of 1993) praying for a Writ of Mandamus quashing selection process. The High Court by the impugned judgment allowed the writ petition with the finding that the Commission had no power to issue interim orders like the one in question. Hence this appealed by special leave.

4. The short question that arises for consideration in this matter is whether the Commission had the powers to issue a direction in the nature of an interim injunction? The appellant supports the letter dated March 4, 1993 of the Commission on the facts of the case which supposedly justify the passing of an interim direction of the type contained in the letter dated March 4, 1993. The appellant refers to Article 338, clauses (5) & (8), of the Constitution introduced by the Constitution (Sixty Fifth Amendment) Act, 1990 to argue that the Commission had power to requisition public record and hence it could issue directions as if it enjoyed powers like civil court for all purposes. Further the appellant contends that even a single member of the Commission has every authority to pass a direction on behalf of the entire Commission and hence the High Court was wrong in expressing the view that a single member of the Commission could not have issued the direction contained in the letter dated March 4, 1993. the

appellant further contends that no w would like against an interim order of the Commission.

5. The basic question, however, is whether the Commission had the authority to issue the direction it did by the letter dated March 4, 1993. clauses (5) & (8) of Article 338 of the Constitution, which the appellant refers to as the source of the Commission's power can be quoted for ready reference.

\*(5) It shall be the duty of the Commission-

- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this Commission or under any other law for the time being in force or under any other of the Government and to evaluate the working of such safeguards;
- (b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Scheduled Tribes;
- (c) To participate and advise on the planning process of socio-economic development of the Scheduled Castes and Scheduled Tribes and to evaluate the process of their development under the Union and any State;
- (d) To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards.
- (e) To make in such report recommendation as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and social economic development of the Scheduled Castes and Scheduled Tribes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes and Scheduled Tribes as the president may, subject to the provisions of any law made by Parliament by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or purposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such reports, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have, all the powers of a civil court trying a suit and in particular in respect of the following matters namely:-

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examinations of witnesses and documents;
- (f) any other matter which the President may, by rule, determine.

6. It can be seen from a plain reading of clause 8 that the Commission has the power of the Civil court for the purpose of conducting an investigation contemplated in sub-clause (a) and an inquiry into a complaint referred to in sub-clause (b) of Clause 5 of Article 338 of the Constitution.

7. Sub-clauses (a) to (f) of clause (8) clearly indicate the area in which the Commission may use the powers of a civil court. The Commission has the power to summon and enforce attendance of any person from any part of India and examine him on oath, it can require the discovery and production of documents so on and so forth all these powers are essential to facilitate an investigation or an inquiry. Such powers do not convert the Commission into Civil Court.

8. It will be interesting to observe that the Commissions of Inquiry Act ( 1952) grants similar powers to the Commission.



of Inquiry. Section 4 and sub-section (4) and (5) of Section 5 of the Commissions of Inquiry Act, 1952 which confer such powers are quoted below:

“4. Powers of Commission – the Commission shall have the powers of a Civil Court, while trying as suit under the Code of Civil Procedure, 1908 (Act V of 1098), in respect of the following matters, namely:-

- (a) Summoning and enforcing the attendance of any person and examining, him on oath;
- (b) Requiring the discovery and production of any document;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record or copy thereof from any Court or office;
- (e) Issuing commissions for the examinations of witnesses or documents;
- (f) Any other matter which may be prescribed.

5. (4) The Commission shall be deemed to be a Civil Court and when any offences as is described in section 175, Section 178, Section 179, Section 180 or Section 228 of the Indian Penal Code (Act XLV of 1860) is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting of offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (Act V of 1898), forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under Section 482 of the Code of Criminal Procedure 1898.

(5) any procedure before the Commission shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code (Act XLV of 1860)”.

9. In *M.V. Rajwade v, Dr. S.M. Hassan*, AIR 1954, Nagpur 71, the question whether the Commission of Inquiry, by virtue of the above provisions, could be treated to be a Civil Court for the purpose of the Contempt of Courts Act, 1971 came to be considered. The High Court observed as under:

“It would appear from Section 4 that it only clothes the Commission with certain powers of a Civil court but does not confer on it the status of Court. It is only under sub-section (4) of Section 5 that the Commission is deemed to be a Civil Court and sub-section (5) imparts to the proceeding before it the character of a judicial proceeding. However, these provisions only create a fiction which cannot extend beyond the purpose for which it is created.

10. The judgment in the case of *M.V. Rajwade (supra)* was referred to with approval by this Court in *Dr. Baliram Waman Hiray v. justice B. Lentin and Others JT 1988 (4) SC 265*. the question in that case was whether the Commission of Inquiry constituted under Section 3(1) of the Commissions of Inquiry Act, 1952 was a court for the purposes of Section 195(1) (b) Criminal Procedure Code, 1973. It was contended before the Court that sub-section 4 of Section 5 of the Commission of Inquiry Act created a legal fiction by which the Commission of Inquiry was deemed to be a Civil Court for all purposes. It was held that the words “for all purposes” are not there in the first part of sub-section 4 and the Court cannot,

in the guise of interpreting the provision, supply any causes omissus. The Court went on to say that the purpose of creating the fiction was reflected in the second part of sub-clause 4, viz., for the purpose of proceedings under Section 482 of the Old Code and Section 346 of the new Code of Criminal Procedure.

11. Interestingly, here, in clause 8 of Article 338 the words used are “the Commission shall..... have all the powers of the “Civil Court trying a suit”. But the words “all the powers of a Civil Court” have to be exercised “while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause 5”. All the procedural powers of a Civil Court are given to the Commission for the purpose of investigating and inquiring into these matters and that too for that limited purpose only. The powers of a Civil Court of granting injunctions, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause 8 of Article 138 of the Constitution.

12. The Commission having not been specifically granted any power to issue interim injunctions, lacks the authority to issue an order of the type found in the letter dated March 4, 1993. The order itself being bad for want of jurisdiction, all other questions and considerations raised in the appeal are redundant. The High Court was justified in taking the view it did. The appeal is dismissed. No costs.

AAAAAAAAAAAA

**Appendix – C/1**

**FAX : 011-3012132 (N.B.)**  
**011-3014142 (E.O.)**  
**011-4624821 (L.N.B.)**  
**011-4360862 (Trg. Div.)**  
**011-4361230 (P.E.S)**

**GOVERNMENT OF INDIA**  
**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS,**  
**DEPARTMENT OF PERSONNEL AND TRAINING**  
**NEW DELHI**

**OFFICE MEMORANDUM**

No. 36036/2/97-Estt.(Res)

Dated: 1<sup>st</sup> January, 1998

Sub: Reservation policy for the Scheduled Castes and Scheduled Tribes-  
Implementation of

The undersigned is directed to say that, in terms of this Department No. 36011/15/79-Estt.(SCT) dated January 6, 1981, if other Ministries/Departments intend to depart from the policies laid down by the Department of Personnel, it is mandatory for them to consult the Department of Personnel, in terms of sub rule of the Rule 4 of the transaction of Business Rules; otherwise the policies laid down by the Department of Personnel are binding on them.

2 The instructions contained in this Department's Office Memorandum dated the July 2, July 22, August 13, August 29, 1997 continue to be in operation and there is no proposal to withdraw or to keep in abeyance their implementation.

3. In the All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and other vs. Union of India and others (Civil Appeal No. 13700 of 1996) the Supreme Court has held that the National Commission for Scheduled Castes and Scheduled Tribes has no power of granting injunctions, whether temporary or permanent. The Court also held that the powers of the Commission in terms of Article 338 (8) of the Constitution are all the procedural powers of a civil court for the purpose of investigation and inquiring into the matters and that too for that limited purposes only.

4. In view of the judgment of Supreme court referred to in para 3, the National Commission for the Scheduled Castes and Scheduled Tribes has no power to direct withholding of the operation of any orders issued by the Government.

5. Ministry of Agriculture etc. may, therefore, keep in mind the directions contained in this Department's OM dated 6.1.1981 and the judgment of the Supreme Court referred to above while dealing with the directions given by the National

Commission for the Scheduled Castes and Scheduled Tribes. Ministries/Departments etc. must, however, in all fairness consider the recommendations of the Commission in the light of policies laid down by the Department of Personnel and Training.

Sd/-

(J. Kumar)

Under Secretary to the Govt. of India

To

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi
3. Department of Economic Affairs (Insurance Division), New Delhi
4. Department of Public Enterprises, New Delhi
5. Railway Board
6. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/ Central Vigilance Commission/President's Office/PMO/Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi
8. All Other Sections of the Department of Personnel and Training/Department of Administrative Reforms & Public Grievances/Department of Pensioners Welfare.

**No. 36036/2/97-Estt.(Res)**  
**Government of India**  
**Ministry of Personnel, Public Grievances and Pensions,**  
**Department of Personnel and Training**  
**New Delhi**

**OFFICE MEMORANDUM**

Dated: 30<sup>th</sup> November, 1998

Sub: Reservation policy for the Scheduled Castes and Scheduled Tribes-  
Implementation of

The undersigned is directed to refer to this Department's Office Memorandum of even number dated the 1<sup>st</sup> January, 1998 and letter No. 4/3/98-SSW.II, dated nil addressed to the Secretary, Department of Personnel and Training by the National Commission for Scheduled Castes and Scheduled Tribes with copies endorsed to all Ministries/Departments of the Government of India, etc. and to say that the aforesaid letter of the Commission tends to create the impression that the Commission has powers to supersede the Department of Personnel & Training's Office Memorandum of even number dated January 1, 1998 for which in fact powers have not been vested in the Commission in terms of Article 338 of the Constitution. As the Commission lacks the authority to issue directions in the nature of injunction, the aforesaid action of the Commission is clearly beyond its powers and is illegal.

2 The National Commission for Scheduled Castes and Scheduled Tribes is assigned the important role of safeguarding the interests of the Scheduled Castes and Scheduled Tribes and has been vested with certain powers in discharge of its role in terms of Article 338 of the Constitution. The Ministries/Departments, etc. are therefore expected to extend maximum cooperation to the Commission in the discharge of its role and to give its recommendations/suggestions due consideration. The Ministry of Agriculture, etc. are, however, advised to ignore such of the instructions issued by the Commission as may purport to either amend or withhold or keep in abeyance the instructions issued by the Government in implementation of the reservation policy for the Scheduled Castes and Scheduled Tribes.

Sd/-

(J.D. Kulkarni)  
 Director (Reservations)  
 Tel. No. 301 1591

To

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi

3. Department of Economic Affairs (Insurance Division), New Delhi
4. Department of Public Enterprises, New Delhi
5. Railway Board
6. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/ Central Vigilance Commission/President's Office/PMO/Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi
8. All Other Sections of the Department of Personnel and Training/Department of Administrative Reforms & Public Grievances/Department of Pensioners Welfare.

Copy also to:

The Secretary, National Commission for Scheduled Castes and Scheduled Tribes Floor V, Lok Nayak Bhavan, New Delhi – 110003 for information.

(J.D. Kulkarni)

COPY

No.4/3/98, SSW, II

GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED  
CASTES AND SCHEDULED TRIBES

Floor V, Loknayak Bhawan,  
New Delhi-110003.

To,  
Secretary,  
Department of Personnel & Training,  
North Block,  
New Delhi-110001.

Sir,

Your kind attention is invited to DOPT O.M. No. 36036/2/97-Estt.(Res) dated 1.1.1998 on the subject "Implementation of Reservation policy for SCs & STs". Though a copy of the O.M. was not endorsed to the National Commission for SCs & STs the Commission has noted the contents of the letter.

2. The National Commission for SC & ST conducts investigations and inquiries under Clause 5(a) and (b) of Article 338 into matters relating to safeguards provided for SCs & STs and specific complaints with respect to deprivation of rights and safeguards of SCs & STs. The said clause reads as under:

(5) It shall be the duty of the Commission:

(a) to investigate and monitor all matters relating to the safeguards provided for the SCs & STs under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards.

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs & STs.

For the said purpose the Commission under Clause 8 of Article 338 has been granted the powers of a Civil Court as under:

Clause(8): The Commission shall, while investigating any matter referred to in subclause (a) or inquiring into any complaint referred to in subclause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witness or documents;
- (f) any other matter which may be prescribed.

The Supreme Court in its judgment dated 31.10.96. The All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and other Vs. Union of India and others (Civil Appeal No. 13700 of 1996) referred to in your O.M. dated 1.1.98 has held as under:

“The powers of a Civil Court of granting injunction, temporary or permanent, do not inhere in the Commission nor can such a power be inferred or derived from reading of Clause 8 of Article 338 of the Constitution.

From the above, it can be seen that Hon'ble Court says that the Commission does not have the power to issue injunction, temporary or permanent, there appears to be no bar on the issuing of findings and other relevant directions which are the outcome and result of detailed inquiries and investigations conducted under article 5(a) and (b) of Article 338. It would make little sense if after detailed investigations and inquires the Commission does not communicate the conclusions/outcome to the concerned Department/Organisation for appropriate remedial action in order to protect the safeguards and rights provided to SCs & STs under the Constitution”.

This clarifies the position.

Yours faithfully,

Sd/-  
(Meenakshi Hooja)  
Joint Secretary



Copy to:

1. All Ministries/Departments of the Government of India.
2. Department of Economic Affairs (Banking Division), New Delhi.
3. Department of Economic Affairs (Insurance Division), New Delhi.
4. Department of Public Enterprises, New Delhi.
5. Railway Board.
6. Union Public Service Commission/Supreme Court of India/Election Commission/ Lok Sabh Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Office/P.M.O./Planning Commission.
7. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi.
8. All Officers/Sections of the Department of Personnel and Training/Deptt. of Administrative Reforms & Public Grievances/Department of Pensioners Welfare.

# The Gazette of India

EXTRAORDINARY

PART II – Section 3 – Sub-Section (i)

PUBLISHED BY AUTHORITY

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NEW DELHI MONDAY, SEPTEMBER, 2004/ BHADRA 15, 1926

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18.	x	x	x	x
19.	x	x	x	x
20.	x	x	x	x
21.	x	x	x	x
22.	x	x	x	x
23.	x	x	x	x

## CHAPTER III

### INVESTIGATION AND INQUIRY BY THE COMMISSION

#### Methods of investigation and inquiry

24. The Commission may adopt any one or more of the following methods for investigating or inquiring into the matters falling within its authority:

- (a) by the Commission directly;
- (b) by an investigating Team constituted at the Headquarters of the Commission; and

(c) through its State Officers

**Investigation and Inquiry by the Commission directly.**

**25.   x     x     x     x**

**26.   x     x     x     x**

**MINUTES****COMMITTEE ON THE WELFARE OF SCHEDULED CASTES  
AND SCHEDULED TRIBES  
(2007-2008)****(FOURTEENTH LOK SABHA)****SEVENTH SITTING  
(17.10.2007)****The Committee sat from 1100 to 1300 hrs.**PRESENT

Shri Ratilal Kalidas Varma - Chairman

MEMBERSLOK SABHA

2. Shri Anandrao Vithoba Adsul
3. Shri S. Ajaya Kumar
4. Shri Kailash Baitha
5. Shri S.K. Bwiswmuthiary
6. Shri Eknath M. Gaikwad
7. Smt. Sushila Kerketta
8. Shri Kailash Meghwal
9. Shri Jual Oram
10. Shri Virchandra Paswan
11. Shri E. Ponnuswamy
12. Smt. K. Rani
13. Shri Bajju Ban Riyan
14. Shri Sugrib Singh
15. Shri Chengara Surendran
16. Shri Vanlalawma

RAJYA SABHA

17. Shri Sharad Anantrao Joshi
18. Shri Mahendra Sahni
19. Shri Jesudas Seelam

## SECRETARIAT

1. Shri P.K. Misra, Joint Secretary
2. Shri Gopal Singh, Director
3. Ms. J.C. Namchyo, Deputy Secretary
4. Smt. Maya Lingi, Under Secretary

WITNESSESREPRESENTATIVES OF THE MINISTRY OF SOCIAL JUSTICE  
AND EMPOWERMENT

1. Dr. (Smt.) Veena Chhotray, Secretary
2. Shri D.V.S. Ranga, Joint Secretary
3. Shri R.S. Meena, Director
4. Shri V.R. Malhotra, Director

At the outset, the Hon'ble Chairman welcomed the Hon'ble Members of the Committee. The Committee then considered the draft report on the subject "Reservation in services including reservation in admission and employment of Scheduled Castes and Scheduled Tribes in Kendriya Vidyalaya Sangathan (KVS), Kendriya Vidyalayas and in Navodaya Vidyalaya Samiti (NVS) and Navodaya Vidyalayas" – part Report regarding Navodaya Vidyalaya Samiti (NVS) and Navodaya Vidyalayas" and adopted the same.

2. The Committee also authorised the Chairman to finalise the report and present the same to both the Houses of Parliament.

3. Thereafter the representatives of the Ministry of Social Justice and Empowerment were called before the Committee. The Chairman welcomed the representatives of the Ministry of Social Justice and Empowerment. The Committee then took their evidence on the subject “National Commission for the Scheduled Castes – its mandate and achievements – a review of its organisation and working”.

4. The evidence was completed.

(The witnesses then withdrew)

5. A verbatim record of the proceedings was kept.

**The Committee then adjourned.**

## MINUTES

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES  
AND SCHEDULED TRIBES  
(2008-2009)**

**(FOURTEENTH LOK SABHA)**

**THIRTEENTH SITTING  
(03.02.2009)**

**The Committee sat from 1500 to 1530 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi**

**PRESENT**

**Shri Brij Bhushan Tiwari – (In the Chair)**

MEMBERSLOK SABHA

2. Shri Anandrao Vithoba Adsul
3. Smt. Susheela Bangaru Laxman
4. Shri S. Ajaya Kumar
5. Sardar Sukhdev Singh Libra
6. Shri Kailash Meghwal
7. Shri Rupchand Murmu
8. Shri Virchandra Paswan
9. Shri Ramjilal Suman
10. Shri Chengara Surendran
11. Shri Narsingrao H. Suryawanshi

RAJYA SABHA

12. Shri Krishan Lal Balmiki
13. Dr. Radhakant Nayak
14. Miss Anusuiya Uikey
15. Shri Nandi Yellaiah

SECRETARIAT

1. Shri P.K. Misra, Joint Secretary
2. Shri Gopal Singh, Director
3. Ms. J.C. Namchyo, Deputy Secretary

At the outset, the Committee were informed by the Joint Secretary that due to some urgent work, Shri Ratilal Kalidas Varma, Chairman will not attend the sitting. As provided in Rule 258(3) of Rules of Procedure and Conduct of Business in Lok Sabha, Shri Brij Bhushan Tiwari, M.P. was chosen by the Committee to act as Chairman for the sitting.

2. The Committee then considered the draft report on “National Commission for the Scheduled Castes – its mandate and achievements – A review of its organisation and working” and adopted the same. The Hon’ble Chairman also requested the Members to send their suggestions, if any, in writing to be incorporated in the draft report within two days.

3. The Committee also authorised the Chairman to finalise the report and present the same to both the Houses of Parliament.

4. The Committee also decided to undertake Study Tour after the Budget Session is over with a view to examining reservation in employment of SCs and STs in various organisations. For this purpose, the Committee authorised the Chairman to chalk out the details of the tour programme and obtain permission from Hon’ble Speaker.

The Committee then adjourned.

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*(Vide para 4 of Introduction)*  
SUMMARY OF CONCLUSIONS/RECOMMENDATIONS  
CONTAINED IN THE REPORT

Sl. No.	Para. No.	Conclusions/Recommendations
1	2	3
1.	1.16	<p>The Committee note that under Article 338 of the Constitution, a Special Officer who was designated as Commissioner for SCs and STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes. On persistent demand by MPs that the Office of the Commissioner for Scheduled Castes and Scheduled Tribes alone was not enough to monitor the implementation of constitutional safeguards, a proposal was moved for amendment of Article 338 under the Constitution (46<sup>th</sup> Amendment) for replacing the arrangement of one member system with a multi-member system. The first Commission for SCs and STs was set up in August, 1978 through an administrative decision <u>vide</u> Ministry of Home Affairs Resolution No.13013/9/77-SCT(I), dated 21.07.1978. The functions of this multi-member Commission were modified in 1987 and the Commission for SCs and STs was renamed as the National Commission for Scheduled Castes and Scheduled Tribes. The Committee, however, note that the first statutory National Commission for Scheduled Castes and Scheduled Tribes under the Constitution (Sixty-fifth Amendment) Act was constituted only on 12.03.1992, replacing the Commissioner for Scheduled Castes and Scheduled Tribes. The Committee further note that consequent upon the Constitution (Eighty-ninth Amendment) Act, 2003, which came into force w.e.f. 19.02.2004, Article 338 was amended to create National Commission for Scheduled Castes and Article 338A was inserted to create National Commission for Scheduled Tribes. Thus the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was bifurcated into two different Commissions.</p>
2.	1.17	<p>The Committee note that according to the National Commission for Scheduled Castes Chairperson, Vice-Chairperson and Members (Condition of Service and Tenure) Rules, 2004, the Members of the Commission are enjoying the status of Secretary to the Government of India. The Chairperson and the Vice-Chairperson have been</p>

conferred the status of Cabinet Minister and Minister of State, respectively. The Committee note that there is no deviation in regard to the functioning of NCSC from that of erstwhile NCSCST and it has been vested with adequate powers to take effective measures to safeguard the interest of Scheduled Castes under Article 338 of the Constitution. The functions, duties and powers of the NCSC *inter-alia* include investigation and monitoring of all matters relating to safeguards provided for the Scheduled Castes under the Constitution, or under any other law or any order of the Government and to evaluate the safeguard, to enquire into specific complaints regarding deprivation of rights provided under the Constitution, to present to the President annual reports upon working of these safeguards, to make recommendations as to the measures that should be taken by the Union or any State for protection, welfare and socio-economic development of the SCs as well as other functions as the President may by rule specify.

3. 1.18 Keeping in view the immense responsibility entrusted to the Commission to investigate and monitor all matters under the Constitution or under any other law or under any order of Government, the Committee are of the view that the strength of the Commission is not adequate to cater to the needs and problems of SC population spread all over India. Inquiring into specific complaints of deprivation of rights itself is a vast responsibility. Deprivation of rights in the form of atrocities against SCs, suppression of their civil rights as also deprivation of their service rights are some of the matters which require to be inquired into objectively by visiting the places of occurrence of such incidents to have the first hand knowledge and information. The Committee, therefore, recommend that the strength of the Commission should be increased suitably with a view to assigning each member specific subjects such as atrocities, socio-economic development, service matters, etc. so that he may give his undivided attention to find a favourable solution to the problems/difficulties being faced by the distressed SC people. The Committee also note that a very important function provided under Clause (9) of Article 338, is that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes. The Committee, therefore, strongly recommend that the Union and the State Governments should ensure that the Commission is always consulted in all policy matters affecting the Scheduled Castes for their concurrence. The Committee should also be apprised of the policy matters on which the Commission had been consulted by the Union and State Governments in the recent past.

4. 1.19 The Committee note that Shri Fakirbhai Vaghela, Vice Chairman, NCSC while submitting the First Special Report (01.04.2006 to 30.09.2006) to His Excellency President of India in his DO letter, dated February, 2007 has *inter-alia* mentioned that one mandate of Article 338 (5)(c) of the Constitution, that it is the duty of the Commission to participate and advise on the planning process of socio-economic development of SCs, has not been translated into practice by making institutional arrangement in the planning process of the Government. He had, therefore, requested that Chairman of NCSC needs to be made a member of the Planning Commission or, if not possible, then at least a permanent invitee to the Planning Commission. The Secretary, Ministry of Social Justice and Empowerment had, however, refuted the claim made by NCSC by saying that the National Commission are associated in various Committees, working groups or other such bodies set up by the Planning Commission. The Committee feel that there is an urgent need to bring out a formula by which participation of the NCSC in the planning and evaluation process for socio-economic development of SCs at the Central and State levels is assured. If required, the Committee would like the Government to initiate action to amend Article 338 of the Constitution so that the Chairman of the Commission may have an effective role in planning and evaluation process at the Central and State levels.
5. 1.24 The Committee note that the National Commission for Scheduled Castes functions from its headquarters located at New Delhi and from 12 State Offices located at Agartala, Thiruvananthapuram, Ahmedabad, Kolkata, Bangalore, Chandigarh, Lucknow, Guwahati, Chennai, Hyderabad, Patna and Pune. The Committee also note that there are four Wings at the headquarters of NCSC viz. Administration and Coordination Wing; Service Safeguards Wing; Atrocities and Protection of Civil Rights Wing; and Economic and Social Development Wing. The Committee further note that Regional Offices of the Commission keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Castes in the respective States/UTs administrations for evaluation and assessment of the working of various development programmes and their impact on ameliorating the socio-economic condition of SCs and also bring matters to the notice of the concerned State Government for taking remedial measures. The Committee also note that a proposal for creating eight new Regional Offices and upgradation of four Regional Offices of the Commission is under consideration of the Government. The Committee are of the opinion that in the present era of rapid economic development, a good number of Scheduled Castes are still leading a miserable life either due to lack of facilities/welfare schemes not reaching them or because of atrocities perpetrated against them. The Committee, therefore, recommend that action on the proposal for

creating eight new Regional Offices and upgradation of existing Regional Offices should be taken up on a priority basis. The Committee also recommend that new Regional Offices should be established in such a way that these can cover every nook and corner of the country and staff posted therein should be well versed with the problems of SCs and the relevant laws in force for their overall development.

6. 1.30 The Committee note that Commission has powers of the Ministry of the Central Government under the Delegation of Financial Powers Rules, 1978, the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil Services (Leave) Rules 1972; the Central Services (Joining Time) Rule, 1979; the General Provident Fund (Central Services) Rules, 1960, Contributory Provident Fund and similar other Rules. The Committee, however, regret to observe that the Commission does not have full autonomy in regard to financial and administrative matters and has no powers in matters relating to creation of posts, reappropriation of funds from one head to another; purchase of vehicles; and permitting officers of the Commission to participate in Seminars, Conferences or Training abroad. The Committee are also dismayed by the fact that the Commission, which has been given statutory status and powers of the Ministry of Central Government in certain matters, has to project its requirements to the Ministry of Social Justice and Empowerment for provision to be made in Budget Estimates. The Committee regret to observe that the proposal for separate Demands for Grants for NCSC has also not been agreed to by the Ministry of Finance (Department of Expenditure). The Committee wonder as to why the Ministry of Finance (Department of Expenditure) have objected to proposals for separate Demands for Grants for the Commission and allowed to have only Budget Head within the Demands for Grants for Ministry of Social Justice and Empowerment. The Committee are distressed that even the statutory status does not entitle NCSC to have a separate entity. The Committee are of the firm opinion that when it was decided to bifurcate NCSCST, it was never envisaged that NCSC would function as a part of the Ministry of Social Justice and Empowerment. If it was so, there was no need to bifurcate the erstwhile Commission into two separate statutory bodies. It could have continued to function as a non-statutory body as earlier. NCSC would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters.

7. 1.31 After having considered all the facts, the Committee are of the strong view that only limited administrative and financial powers have been given to the NCSC by making it a part of Ministry of Social Justice and Empowerment. The Committee, therefore, recommend that full administrative and financial powers should be given to NCSC so that it may not remain dependent on the Ministry of Social Justice and Empowerment for every piece of proposal having financial implications. The Committee are of the view that NCSC is an independent statutory body and it has every right to have its own Demand for Grants in a realistic manner. The Committee would like to be apprised of the reasons adduced by the Ministry of Finance for rejecting the proposal for separate Demand for Grants for NCSC. Keeping in view the magnitude of the functions and duties assigned to NCSC, the Committee also recommend that a fresh proposal should be sent to Ministry of Finance for creating a separate Demand for Grants for NCSC on the lines of other constitutional bodies such as Election Commission, Union Public Service Commission, etc. as it is essential for the independent functioning of the Commission. The Committee may also be apprised of the outcome within three months.

8. 1.42 The Committee note with concern that the procedure for appointment and regulation of staff of the Secretariat of NCSC is quite complicated. The Committee note that some posts of Secretariat staff such as Secretary/Joint Secretary/Director/Deputy Secretary are filled up under Central Staffing Scheme by DOP&T; the staff at the level of Under Secretary, Section Officer, Assistant, UDC, LDC, PPSs, Steno and PA are filled up by DOP&T and are borne on the strength of Ministry of Social Justice & Empowerment, while Joint Cadre posts of Director, Deputy Director and Assistant Director are filled up by the Ministry of Social Justice & Empowerment as per their Recruitment Rules. The Committee also note that all other officers/officials including co-terminus staff of Chairperson, Vice-Chairperson and Members are recruited and regulated by the NCSC through the process of direct recruitment as well as on deputation/absorption basis, as per Recruitment Rules.
9. 1.43 The then Chairman, NCSC had expressed his concern for not creating the posts in the personnel section of the Chairman and Vice Chairman in its first Annual Report (2004-05). It had also been mentioned that the Secretariat of the Commission has not been functioning with full strength even after bifurcation of the erstwhile NCSC and that several posts were lying vacant against the sanctioned posts. The Committee, however, note that the Ministry have since created ten posts in various grades in the office of Chairman, NCSC on co-terminus basis and that out of 245 sanctioned posts of all the officers and staff, the number of filled up posts as on 01.10.2007 was stated to be 196. During evidence, the Secretary, Ministry of Social Justice and Empowerment had submitted that the Commission was facing problems in filling up certain posts like LDC, Assistant Director in Research, DIG, Law Officer, Librarian, Assistant Director (Programming) and Assistant Public Relations Officer. The Committee are constrained to point out that delay in filling up all these posts is due to the multiplicity of cadre controlling authorities and that for certain posts the Commission has to be fully dependent on other Ministries. Had the Commission been given an independent mandate to choose its own personnel, such problems in filling up posts would not have occurred. The Committee are distressed that the post of LDC cannot be filled up just because it is a dying cadre whereas the work profile in Commission requires their service according to submission made during evidence. Similarly, the post of DIG is lying vacant as Ministry of Home Affairs has not provided the incumbent for the post. Since the post of DIG has been created in the Commission with a specific purpose, the Committee strongly recommend that the Government should urgently fill up this vacant post. The Committee also recommend that other vacant posts like that of Law Officer, Assistant Director (Research), Assistant Director (Programming) etc. should also be filled up at the earliest and

in case of isolated posts, recruitment rules should be framed within a stipulated time. The Committee would also like to know the outcome of the assessment made by Staff Inspection Unit (SIU) of Department of Expenditure regarding staff strength of the Commission and the future course of action proposed to be taken by the Government in this regard.

10. 1.44 The Committee are of the strong view that since NCSC has been constitutionally given an independent mandate to safeguard the interest of SCs, it should have an independent entity and powers so that it may not have to depend on other Ministries/Departments. The Committee are also of the view that unless the people working for this authority have a sense of belonging, they will not be able to give their best to the institution. The Committee, therefore, impress upon the Government to initiate action to create a separate cadre for NCSC and its all Regional Offices at the earliest so that the objective of NCSC is achieved through the staff working therein. The Committee would like to be apprised of the action taken in this regard within three months of the presentation of this report to Parliament.
11. 2.7 The Committee note that the report of NCSC is required to be laid in Parliament as provided in clause 6 of Article 338 of the Constitution which states that the President shall cause all such reports to be laid before each House of the Parliament alongwith Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for non-acceptance. As per provision of clause 7 of Article 338 of the Constitution, the report relating to the State Government is forwarded to the Governor of the States for similar action to be taken at the State level.
12. 2.8 The Committee further note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had submitted seven regular and one special report to the President during the period of about 12 years out of which six Annual Reports and the Special report had been laid in the Parliament. However, nothing has been said with regard to laying of the 7<sup>th</sup> Report submitted to the President on 17.02.2004. The Committee should be apprised of the fate of that report. It has also been stated that the Commission had submitted three special reports in 2000 concerning State Governments of Bihar, Uttar Pradesh and Madhya Pradesh. After bifurcation of NCSCST, the National Commission for Scheduled Castes has submitted one Annual Report for the year 2004-05 in July, 2006 and one Special Report for the period 01.04.2006 to 30.09.2006.

13. 2.9 The Committee regret that the first report (2004-05) of NCSC which was submitted in July, 2006 has not been laid before each House of Parliament since it has been stated that the report was circulated to different Ministries only in November, 2006 and that the response from some Ministries is still awaited. The Committee are pained to note that Ministry of Human Resource Development and Ministry of Panchayati Raj are taking long time in furnishing the comments on the report of NCSC leading to delay in laying of report in Parliament. The Secretary of the Ministry had also submitted before the Committee that the average time taken before giving action taken report for laying the same in Parliament is two years since they have to go to the concerned Ministries/PSUs/State Governments for their comments/views. The Committee, however, do not find such reasoning to be convincing in this era of rapid communication technology. The Committee are of strong opinion that due to absence of a fixed time limit for the submission of report to the Parliament after it has been presented to the President, the Ministry of Social Justice and Empowerment cannot force other Ministries/ Departments to expedite their views/opinion alongwith memoranda of action taken on the recommendations on the report. The Committee are also of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCSC should not only submit its report annually but the Ministry should also take timely action to get the reports presented in the Parliament in a time bound manner. The Committee, therefore, strongly recommend that action to amend clause (6) and (7) of Article 338 of the Constitution should be initiated so that a time limit is fixed for presenting the reports of the NCSC in the Parliament. The Committee also recommend that the Ministry should initiate action for holding discussion on the report in Parliament by way of a Government Motion. The Committee also desire that the Government should impress upon the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament. The Committee should also be apprised about the position relating to the annual reports for the years 2005-06 and 2006-07 and desire that these reports should be presented to the President and laid in Parliament expeditiously.
14. 2.19 The Committee note that the National Commission for Scheduled Castes has been vested with the duty to *inter alia* investigate all matters relating to the safeguards provided to SCs and to enquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to NCSC under



clause (8) of the Article 338 of the Constitution. The Committee, however, note that the role of NCSC as a civil court is limited to that of summoning and enforcing attendance of any person, call for production of any document and examine evidence on affidavits but has no judicial power as other civil courts have. The Committee also note that the recommendations made by the Commission are referred to the concerned Central Ministries/Departments/State Governments for taking appropriate action on the recommendations but these are not binding upon them to implement those recommendations. The role of Commission as an advisory body has been stressed by the Secretary of the Ministry and admitted by the Secretary, NCSC. The verdict delivered by the Supreme Court in the Civil Appeal No.13700 of 1996 in the case of All India Indian Overseas Bank Scheduled Castes and Scheduled Tribes Employees Welfare Association and others Vs. Union of India and others had justified the view of the Delhi High Court that the Commission lacks the power to issue interim order. In such a situation, the Committee are of the view that the Commission has been placed in a peculiar position as on the one hand the Commission has been given powers to investigate matters as a civil court but on the other hand its recommendations are treated as only advisory in nature. The Committee feel that NCSC has not been treated as a separate constitutional entity capable of functioning effectively for the betterment of the SCs. It is also interesting to note that the verdict of Supreme Court had come in 1996 and it was against the erstwhile NCSCST when it was not bifurcated. The Committee would like to know whether this aspect was examined when Article 338 was being amended to have separate Commissions for SCs and STs, and if so, necessary amendments should have been suitably incorporated in the Constitution (Eighty Ninth Amendment) Act, 2003 when it was being brought. The Committee note that the Commission has been taking up the matter from time to time for giving more effective powers to it. The Committee strongly recommend that if necessary, the Constitution should be amended to provide greater powers to the Commission so as to enable it to act as an effective and independent organisation.

15. 3.7 The Committee note that to determine the procedure and methodology of its investigation, Rules of Procedure have been framed in the year 2004 and published in the Gazette of India. The Committee also note that in order to monitor and evaluate the impact of development schemes, the Commission interacts with the State/UT Governments by holding State level review meetings and through field visits. For speedy investigation of complaints and prompt disposal of cases, the Commission calls for all relevant records alongwith concerned officials/liaison officers. The Committee further note that to evaluate various programmes undertaken by the Government, the Commission and its officers both at headquarters and in the State offices participate

in formulation of policies and the development programmes for SCs, including SC Sub Plan. The field offices of the Commission also conduct evaluation studies of various programmes being implemented for the welfare of SCs.

16. 3.8 The Committee note that the Commission has been managing to perform despite constraints in the existing system as mentioned during evidence. The Committee note that Commission has made some observations in regard to delay in payment of scholarship. The Committee concur with the views of the Commission and recommend that the Ministry should impress upon all the State Governments to create revolving fund for disbursement of scholarship in the beginning of the year so that SC children are able to avail themselves of the same in time. The Committee are happy to note that the members of the Commission visit the spot whenever any atrocity takes place and also ensure that POA Act is applied on the cases of atrocities on SCs. The Committee recommend that the Commission should continue intervening in the cases of atrocities so that victims get proper justice as per the law. The Committee strongly recommend that there should not be any laxity in investigation relating to safeguards provided to SCs.
17. 3.9 The Committee also note that the Commission has conducted various State level review meetings in the last three years. The Committee are deeply anguished that State Governments are not responding to the minutes of the review meetings circulated to them. The Committee strongly recommend that the Commission should pursue with State Governments for taking appropriate action at the earliest. In case they still persist with indifferent attitude, it is advised that Government should initiate action to amend the Constitution so that State Governments are made accountable for their lapses in regard to matters concerning welfare of Scheduled Castes people.
18. 3.10 The Committee note that the Commission has also constituted a Committee to identify the areas of interest and compile a list of texts in religious books containing objectionable material in order to remove untouchability, and the Committee has since submitted its report to the Commission on 22<sup>nd</sup> February, 2007. The Committee should be apprised about the course of action taken by the Commission on this report.
19. 4.3 The Committee note that NCSC has published some leaflets for handling atrocities cases. They have also brought out monthly magazine namely "Anusuchit Jati Vani" and published a booklet on RTI and Yellow Hand Book giving the information/data. They have also launched their web-site more than one year ago and established a Toll

Free Telephone number. The Committee further note that the information is available in Hindi and English and wherever possible the State Offices of the Commission translate the same in the regional language. The Committee strongly recommend that the material should be made available at all times in regional languages for wider dissemination. The Committee note that information about the Commission reaches the Scheduled Castes population through press conferences with print and electronic media which is not enough. Many Scheduled Caste people are still living in remote areas where the media cannot reach; they cannot read or write and are still in dark about their rights and the safeguards available to them. The Committee would, therefore, recommend that NCSC should send teams to remote areas not only to monitor and evaluate the working of safeguard physically but also to create an increased level of awareness among SCs. The Committee would also like all regional offices to make every effort to see that all Scheduled Caste people living in their regions are made aware that NCSC is the custodian of their rights and could be approached for safeguarding their rights and interests.

20. 4.5 The Committee are disturbed to note that the website of NCSC reflects List of Non Governmental Organisations in different States that received assistance under the scheme of Grant-in-Aid to voluntary organisations working for Scheduled Castes during the year 2004-05 whereas the Ministry in their reply have stated that there is no NGO working under NCSC. The Committee take serious note of the fact that the Ministry did not explain that NGOs are in receipt of funds. The Committee should be provided with the details of schemes under which Grants-in-Aid are given to NGOs/ voluntary organisations alongwith funds disbursed during the last 3 years. The Committee should also be apprised whether the credibility of the Voluntary Organisations/NGOs is verified by them before releasing any funds to them. The Committee recommend that utmost care should be taken to choose only those NGOs/Voluntary Organisations which are genuinely working for the welfare and cause of Scheduled Castes people. The Committee recommend that NCSC should also examine whether the fund granted to NGOs during the last 3 years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of Scheduled Castes people.
21. 4.10 The Committee note that allocation of Plan funds is made by the Planning Commission and instructions regarding earmarking of funds under the Scheduled Castes Sub Plan (SCSP) in proportion to Scheduled Castes population have been issued from time to time. The Committee also note that the States are required not only to provide the funds in their Special Component Plan in proportion to the

population of the SCs in the States but also to ensure its expenditure. Although the Ministry and NCSC review the performance in formulation and implementation of SCSP in various States, the Committee observe that the Ministry cannot force the States to earmark the SC Plan fund according to their population. At the most, the Ministry can offer incentive in the form of Special Central Assistance on the actual expenditure incurred for the welfare of SCs under SCP Fund. On the other hand, the Committee observe that Planning Commission are in a better position to persuade the States to allocate SCP fund according to SC population in States. The Committee also note that the Planning Commission monitors schemes of both States and Central Governments. The Committee, therefore, recommend that Planning Commission should be advised to finalise the Annual Plans only if State Governments have earmarked funds for SCP according to SC population of each State so that expeditious economic development of SCs is undertaken. While the Committee appreciate that the State of Orissa has already taken steps in allocating fund as per SC population as submitted by Secretary, Ministry of Social Justice and Empowerment, the Committee are surprised that in Andhra Pradesh, where lot of money is being spent from the State funds for the welfare of SCs, the State Government had not made allocation in their SC Plan as per SC population in the State. The Committee, therefore, urge the Ministry, NCSC and Planning Commission to advise the State Government of Andhra Pradesh for proper allocation of funds as per SC population in the State and utilization of the same for the development of SCs.

22. 4.11 The Committee note that a request had been made to the Government to allocate Rs.1 lakh crore for SCs and STs in the Annual Budget. It appears that the Government are not considering this proposal seriously. The Committee, therefore, strongly recommend that Union Government should earmark 15 percent and 8 percent of their Annual Budget for the development of SCs and STs, respectively.
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