

COMMITTEE ON PETITIONS

(FIFTEENTH LOK SABHA)

NINETEENTH REPORT

MINISTRY OF CIVIL AVIATION

(Presented to Lok Sabha on 28.08.2012)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Anant Gangaram Geete - Chairman

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**NINETEENTH REPORT OF THE COMMITTEE ON PETITIONS
(FIFTEENTH LOK SABHA)**

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Nineteenth Report of the Committee to the House on the Action taken by the Government on the recommendations of the Committee on Petitions (15 Lok Sabha) in their Seventeenth Report on the representation from Shri R.Y. Bankar, General Secretary, Air Corporation's SC/ST Employees Association, Mumbai regarding Uniform Caste Verification Policy and related issues.

2. The Committee considered and adopted the draft Nineteenth Report at their sittings held on 3 August, 2012.
3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;

03, August, 2012
12 Shravana, 1934 (Saka)

Anant Gangaram Geete,

**Chairman,
Committee on Petitions.**

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS IN THEIR SEVENTEENTH REPORT (15TH LOK SABHA) ON THE REPRESENTATION FROM SHRI R.Y. BANKAR, GENERAL SECRETARY, AIR CORPORATIONS SC/ST EMPLOYEES ASSOCIATION, MUMBAI REGARDING: UNIFORM CASTE VERIFICATION POLICY IN AIR INDIA AND RELATED ISSUES.

The Committee on Petitions in their Seventeenth Report (15th Lok Sabha) presented to Lok Sabha on 24.12.2011 had examined the representation from Shri R.Y. Bankar, General Secretary, Air Corporations SC/ST Employees' Association, Mumbai regarding Uniform Caste Verification Policy in Air India and related issues.

2. The Committee had made certain observations/recommendations in the matter and the Ministry of Civil Aviation were requested to furnish their Action Taken Replies thereon for consideration of the Committee.

3. The Action Taken Replies have since been received from the Ministry of Civil Aviation in respect of all the observations/ recommendations contained in the aforesaid Report which have been detailed in the succeeding paragraphs.

4. In para 31 of the Report, the Committee had noted as follows:-

"The petitioner, Shri R.Y. Bankar represented before the Committee that the Air India has taken an arbitrary decision in removing 9 Scheduled Tribe permanent employees, who had rendered 10 to 15 years of unblemished service in the Organization on the pretext that the validity of their ST Certificates had not been confirmed by the Issuing Authority. The petitioner has alleged that this decision of Air India Management to re-verify the certificates of Scheduled Tribe permanent employees by the State Caste Scrutiny Committee is an act of harassment and is also in violation of the judgement of the Hon'ble Mumbai High Court. The petitioner has maintained that the Management in the process had also overlooked the Presidential Directive in respect of verification of caste certificates of the SC/ST employees. The petitioner has, therefore, requested to get the justice delivered to them and other such ST employees – who were 242 in number."

5. In reply to the aforesaid observations of the Committee, the Ministry of Civil Aviation have stated:-

"The claim made by the petitioner that Air India has taken an arbitrary decision in removing 09 ST permanent employees who had rendered 10 to 15 years of unblemished service in the Organization on the pretext that the validity of their

ST certificate had not been confirmed by the Issuing Authority does not hold good. In line with the directions of DOPT with reference to implementation of directions of Hon'ble High Court in CWP No. 5976/2003 regarding re-verification of cases of persons who have secured employment in the Government of India and Government of NCT of Delhi, and their agencies, under the guise of forged/fake ST Caste Certificate since 1995, the Vigilance Department had undertaken re-verification of the Caste Certificates of these ST employees by forwarding their caste certificates to the concerned Issuing Authorities in the year 2009. During the process Vigilance had received reports in respect of 09 ST employees from the Issuing Authorities confirming that the caste certificates of these ST employees were not issued from their office. On receiving these verification reports from Vigilance Department recommending appropriate action, the concerned departments were advised to initiate disciplinary action as per paragraph 22 of the Presidential Directive and as per applicable rules and regulations of the company. In accordance with the provisions contained in paragraph 22 of the Presidential Directives, termination letters were issued to the 09 ST employees. In view of the aforesaid the allegation made by the petitioner that the act of sending the caste certificates of these 09 ST employees to the scrutiny committees is not correct as their Caste Certificates have not been sent to the scrutiny committee."

6. In para 32 of the Report, the Committee had observed/recommended as follows:-

"The Committee have taken serious note of the fact that the spectre of termination from service looms large on majority of 242 employees belonging to Mahadev Koli community – in the light of the decision taken by the State Government of Maharashtra to de-notify this community from the list of ST communities in the State."

7. In reply to this, the Ministry of Civil Aviation have stated:-

"As regards the re-verification of the 242 ST employees, it was based on the recommendation of the Chief Vigilance Officer, with reference to a complaint received from a Member of Parliament enclosing list of 242 ST employees alleging submission of the forged Caste Certificates at the time of joining the Company. The CVO has advised to initiate the veracity verification process of the 242 employees named in the list forwarded by the Member of Parliament (except for those who have retired/been dismissed) with the concerned Scrutiny Committee as per the instructions contained in the Circular dated 23 January 1985 issued by the Tribal Development Department of the Government of Maharashtra which states that the Scrutiny Committee is the Competent Authority to verify the Caste Certificates of Government employees. As advised by the CVO, E & F Forms duly filled up contesting the need for verification of

their caste certificates after putting in more than 15 to 20 years of service. The relevance to the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jaties) Nomadic Tribes, other Backward Classes and Special Backward Category (regulation of issuance and verification) Caste Certificate Act 2000 in the subject matter is being looked into."

8. In para 33 of the Report, the Committee had observed/recommended as follows:-

"The Committee were given to understand from the information furnished by the Ministry of Civil Aviation that in effect there were 328 personnel in Air India who had produced Mahadev Koli caste certificates. Thus, there were two categories of ST certificate cases which are being reverified. In the first category the reverification is being done as per the Presidential Directive i.e. the reverification of caste certificates of those employees who had produced criminally forged or false certificate after the recruitment made on the basis of 1995 Order of Hon'ble Delhi High Court. The cases of 242 ST candidates of Koli community, however, fall in the second category; which came for reverification because of denotification of this tribe from the State List of ST communities by the State Government of Maharashtra. The Ministry had opined clearly that these cases need to be viewed separately."

9. In their submission to this point, the Ministry of Civil Aviation have stated:

"The Task Force chaired by CVO had undertaken reverification of ST caste certificates of the 118 ST employees joined since 1995 as per the DOPT OM mentioned dated 25 May 2005 for the purpose of implementation of the directions of the Delhi High Court in CWP 5976/2003 for reverification of forged/fake ST caste certificates. As regards the list of 242 ST (except for those employees who have retired/been dismissed) received from the Hon'ble Member of Parliament Mr. D.S. Ahire, forwarded by CVO for reverification with the Scrutiny Committees, the Special Cell for SC/ST had undertaken reverification of 139 on the pay roll as on September, 2010."

10. In para 34 of the Report, the Committee had observed/recommended as follows:-

"The Committee note from the submissions made by the Ministry that a Special Cell for SC/ST has been formed by the Air India to deal with the matter concerning the reverification of ST certificates. It has been stated by the Air India that presently the verification is being carried out by the Task Force under the Chief Vigilance Officer of the Company as per the Directions of Hon'ble Delhi High Court."

11. In response thereto, the Ministry of Civil Aviation have stated:

"The Task Force chaired by CVO constituted on the orders of the then CMD was entrusted the responsibility of carrying out reverificaion of ST caste certificates in respect of employees who obtained employment in Air India since 1995 on the strength of ST certificates issued in/by the State of Maharashtra based on the guidelines issued by DOPT vide their Office Memorandum dated 25 May, 2005 for implementation of the directions of the Delhi High Court in CWP No. 5976/2003 for reverification of forged/fake ST caste certificates."

12. In para 35 of the Report, the Committee had observed/recommended as follows:-

"In the matter of reverification of certificates of 242 employees, the Committee noted in particular that the Air India has referred the matter to the Ministry of Civil Aviation at this stage and views of the Ministry of Law and Justice are also being sought in the matter. During the course of oral evidence held on 11 January, 2011 on the issue, the CMD of NACIL assured the Committee that he would take up the matter of reverification of caste certificates of those 242 employees belonging to the Mahadev Koli community at his level only and would get it completed in a month's time after which the matter would be reported back to the Committee. This was also endorsed to by the Secretary, Ministry of Civil Aviation who was also present during the evidence. The Committee are, however pained to note that even after the lapse of more than 8 months and after being issued so many reminders in the matter to the Ministry nothing concrete has been heard from the Ministry. The Committee while taking strong note of this ineptness on the part of the Ministry as also of the Organization had expressed their displeasure over not strictly adhering to the time frame assured to the Committee in the matter."

13. While replying to this, the Ministry of Civil Aviation have submitted:-

"A reference was made by the then CMD to the Ministry on 12.08.2011 for instructions on the procedure to be followed for verification of the caste certificates. With reference to that an updated guidelines issued by DOPT vide their O.M. dated 25.6.2011 was sent to AIL for further action. A meeting was also held in the matter. AI has been asked to submit a specific proposal for which clarification of DOPT requires. The same is awaited."

14. In para 36 of the Report, the Committee had observed/recommended as follows:-

"While deliberating on the issue, the Committee took cognizance of a similar case related to Halba Kosthi of Vidarbha region of Maharashtra wherein the Department of Personnel and Training vide their OM dated 10 August, 2010 had allowed the continuation of services of such ST employees whose tribe was

denotified after the jobs were provided to them on the basis of ST certificates produced by them. The Committee would, therefore, recommend that the Ministry should look into the case of reverification of certificates of Mahadeo Koli Community in the light of this OM of DOPT and resolve it without any further delay to the satisfaction of all the 242 employees as assured to the Committee during evidence."

15. On this point, the Ministry of Civil Aviation have stated:-

"AI has informed that they have no instructions from the Government with regard to denotification of the Mahadeo Koli Scheduled Tribe Community. The instructions contained in the said Office Memorandum are applicable to a particular Scheduled Tribe Community namely "Halba Koshti".

16. In para 37 of the Report, the Committee had observed/recommended as follows:-

"The Committee had strongly recommended to the Ministry that the case of ST employees whose service have been terminated may be reviewed afresh. The pensionary and other benefits of employees of this community who had already retired from service that had been kept on hold for want of reverification of caste certificates should be released immediately. Reverification of caste certificates of the remaining ST employees of this community must be completed without losing any precious time further and nobody should lose his or her job henceforth for no fault of theirs until or unless the certificate produced by them is proved to be false or forged."

17. In their replies, the Ministry of Civil Aviation have stated:-

"As recommended by the Committee a fresh review is being taken in respect of the cases of 09 ST employees whose services have been terminated on the basis of the re-verification reports received from the concerned Issuing Authorities by applying the Clause 22 of the Presidential Directive on SC/ST by forwarding their caste re-verification reports once again to the concerned Issuing Authorities for authenticity. Further action will be taken on receipt of the reverification reports from these Issuing Authorities."

18. The Committee also took oral evidence of the representatives of the Ministry of Civil Aviation on 21.03.2012 to review the action taken by the Ministry of Civil Aviation on the recommendations made by the Committee in their Seventeenth Report (15th Lok Sabha).

19. On being asked about the development made so far in re-verifying the Caste Certificates of the terminated employees of Air India, especially in the light of the recommendations made by the Committee regarding protection given to Halba Koshti

tribe in a similar case, the Secretary, Ministry of Civil Aviation submitted before the Committee:-

".....The Management has started verification of 242 personnel in 2010 through a Task Force on the complaint of an Hon'ble Member of Parliament. As we have mentioned in our reply to para 31, reverification has been done in 9 cases. In 6 cases out of those 9 cases, certificates have been found to be fake which means that the certificates had never been issued. In one case the certificate was found genuine and the result in two cases is still awaited. We don't intend to save any fake cases. But such employees who have not given any fake certificates but their caste itself has been delisted, their cases should be treated sympathetically."

The Secretary, also added:-

"Regarding the cases of denotification of particular castes, we will follow our DOPT rule. It is not their fault. When they got the job that caste was notified at that time, if it is denotified now then it is not fair to terminate their job. This I would like to assure the Committee. These were the latest facts that came into light and I presented them before you."

20. On being enquired about the process by which the Air India Management would verify the veracity of the caste certificates produced by the employees under reference, to this query of the Committees, the witness submitted:-

"Maharashtra Government follows the process under the Maharashtra Scheduled Castes, Scheduled Tribes, denotified tribes, Nomadic Tribes Act of 2000. Under this before issuing any certificate the case will be referred to District Collector, then it will be sent to Scrutiny Committee. The procedure fixed by DOPT is that CVO should directly go to the officer who has issued the certificate and get it verified from him. The problem is whether we follow the law of Government of Maharashtra or we should follow the administrative order of DOPT. The matter is under consideration of DOPT and Ministry of Law and Justice. If the Competent Authority will decide the certificates as invalid on the basis of denotification then we will follow the directions of DOPT on Halba Koshti. Management have informed us that there is no issue of denotification of Mahadev Koli, or any other tribe, and they are not proceeding the case on that basis. And if such issue crops up then they will follow the rules of Government of India."

21. The Secretary, Ministry of Civil Aviation further assured the Committee:-

".....I want to assure that keeping in mind the recommendation of Hon'ble Committee we will write to Government of Maharashtra that the

Committee have asked to resolve this matter at the earliest. we will ask the Management also."

22. In their updated Action Taken Replies, the Ministry of Civil Aviation vide OM dated 20.07.2012 have stated that a reference was made to DOPT/Ministry of Law for clarification /instructions on the procedure to be followed for verification of caste status of the SC/ST employees specifically in the state of Maharashtra whether it has to be done by the Issuing Authority or by the Scrutiny Committee. In their reply DOPT have clarified that:

"If necessary for any reasons, verify the claim of a candidate through the District Magistrate of the place where the candidate and/or this family ordinary resides. The intention was that a Caste Certificate be verified by an Authority who has issued it. In the case of Maharashtra, the case of verification of a Caste Certificate has been made more rigorous through an Act. Basically, it is for the State Government to issue a Caste Certificate after verification of facts. Every state has its own procedure for verification of the facts. There is no insistence that the Caste Certificate be verified by the concerned District Magistrate only. If any state has vested this power of verification of Caste in any other Authority, the Caste Certificates by such Authorities may also be accepted."

The above clarification was conveyed to Air India with the request that the action may be taken on re-verification of 242 employees based on the clarification given by DOPT.

(Para 35)

23. The Ministry have further submitted:-

"In this regard Air India has informed that Caste Certificates of all 9 ST employees were referred to the Issuing Authority for verification. Verification reports of six cases have been received from the Issuing Authority who has confirmed that the Certificate has not been issued by them. In one case the Issuing Authority has confirmed issuance of the Certificate by them. Reply from Issuing Authority is awaiting for remaining two cases. However, in view of the clarification received from Issuing Authority, it has been decided by Air India that all the 9 certificates may be referred to the Scrutiny Committee along with the 242 cases for re-verification of the Caste Certificate."

(Para 37)

OBSERVATIONS/RECOMMENDATIONS

24. In his representation submitted to the Committee, the petitioner, Shri R.Y. Bankar had stated that Air India being a Central Public Sector Undertaking follows Presidential Directives in respect of verification of caste claims of Scheduled Caste (SC)/Scheduled Tribe (ST) employees of late the Air India have taken an arbitrary decision to remove nine Scheduled Tribes permanent employees who had put in 10 to 15 years of service. Moreover, the recent direction of the Air India Management to get the Caste Certificates of 242 ST permanent employees re-verified by the 'State Caste Scrutiny Committee' is an avoidable act of harassment to the SC/ST employees working in the Air India.

25. The Committee were given to understand by the Ministry that the exercise of re-verification of Caste Certificates was undertaken by the Air India in line with directions of the Department of Personnel & Training (DOPT) relating to implementation of directions of Hon'ble High Court of Delhi in CWP No.5976/2003 regarding re-verification of cases of persons who have secured employment in Government of India and Government of NCT of Delhi and its agencies on the strength of forged/fake ST Caste Certificates since 1995. Further, re-verification of the Caste Certificates in respect of 242 ST employees was initiated on the recommendation of the Chief Vigilance Officer, in pursuance of the complaint received from a Member of Parliament by the concerned Scrutiny Committee.

26. The Committee had observed in their 17th Report (15th Lok Sabha) that the re-verification of Caste Certificates of the employees under reference, in the wake of denotification of Mahadev Koli community from the Scheduled List of STs in Maharashtra may spell doom for the career prospects/livelihood of these employees. The Committee, during evidence held on 11.01.2011 had referred to a similar case, wherein, the Caste

Certificates of a tribe from Vidarbha region, namely, Halba Koshti were provided protection from being nullified by their employers. The Committee had recommended the Ministry to undertake the exercise of re-verification of the caste certificates in the light of OM dated 10 August, 2010 of DOPT providing protection to the Halba Koshti Tribe which was also agreed to at that point of time by the Secretary, Civil Aviation and CMD, Air India.

27. The Committee note from the Action Taken Replies now furnished by the Ministry that a reference was made by the then CMD, Air India to the Ministry of Civil Aviation on 12.08.2011 to secure instructions on the procedure to be followed for verification of the Caste Certificates. With reference to that updated guidelines issued by DOPT *vide* their O.M. dated 25.06.2011 was sent to the Air India Limited (AIL) for further action on their part. A meeting was also stated to be held on the issue wherein AI was asked to submit a specific proposal over which a clarification on the procedure to be followed for verification of SC/ST employees specially in the State of Maharashtra was required from the DOPT. In response thereto, DOPT have clarified:

"If necessary for any reasons, verify the claim of a candidate through the District Magistrate of the place where the candidate and/or their family ordinary resides. The intention was that a Caste Certificate be verified by an Authority who has issued it. In the case of Maharashtra, the case of verification of a Caste Certificate has been made more rigorous through an Act. Basically, it is for the State Government to issue a Caste Certificate after verification of facts. Every state has its own procedure for verification of the facts. There is no insistence that the Caste Certificate be verified by the concerned District Magistrate only. If any state has vested this power of verification of Caste in any other authority, the Caste Certificates by such authorities may also be accepted."

The Committee would like to emphasise that the matter relating to re-verification of ST Caste Certificates of 242 Air India employees should now be expedited without further loss of precious time.

28. The Committee further note that the concerned Authorities in Air India have taken a fresh review in respect of the 09 terminated employees by forwarding the caste re-verification reports once again to the concerned Issuing Authorities for verifying the authenticity thereof. During the oral evidence of the representatives of the Ministry of Civil Aviation and Air India, the Committee were further informed that out of the nine terminated employees of Air India, only one employee's certificate has been found to be original, while those of 6 others were found fake/forged and in case of two employees, the response from the State Government is still awaited. The Committee also note with satisfaction that one employee, out of 09 terminated employees, has been reinstated to his service as a result of re-verification of the Certificates on the recommendations of the Committee. The Committee are, however, concerned to note that it has now been decided by Air India that all the 09 certificates may be referred to the State Scrutiny Committee alongwith the 242 cases for verification of the Caste Certificates. The Committee take a dim view of the way Air India is dealing with the issue of re-verification of the Caste Certificates- specially in the case of 09 terminated employees whose re-verification has already been done by the Issuing Authority and in case of only 02 employees out of 09 terminated employees, response from State Government is awaited. In the light of the clarifications received from the DOPT, the Committee feel that the Certificates which have been already re-verified by the Issuing Authority should not be sent to the State Scrutiny Committee rather the Government should expedite the process of re-verification of Caste Certificates of the remaining 02 employees with the Issuing Authority as was done in the case of other 07 terminated employees. The Committee, therefore, desire that due caution should be exercised in re-verifying the caste certificates of these employees so that their service and career prospects are not put in jeopardy for no fault of theirs.

29. The Committee are also aware of the constraints being faced by the Organisation in re-verifying the Certificates and getting verification reports from the State Government officials in regard thereto. The Committee, therefore, desire that the Certificates of all the 242 employees of Air India should be first sent to the respective Issuing Authorities for re-verification. Only those cases, where records are not available or otherwise with the Issuing Authorities should be sent to the State Scrutiny Committee for re-verification. the process of re-verification may be pursued vigorously in co-ordination with the State Government and the whole exercise should be completed in a time bound manner.

30. The Committee understand that the Air India is in the process of re-verifying the Certificates furnished by the 242 ST employees under reference as per the Guidelines issued by the DOPT. Further as informed by the Air India the Organization have also not been informed about the denotification of Mahadev Koli Caste from the Scheduled List of STs by the State Government of Maharashtra. However, during the oral evidence held on 21.3.2012, the representative of the Ministry/Organisation have again assured the Committee that no employee under reference or even any other employee shall be terminated from service even if a particular caste is denotified by the State Government after an employee had joined service. The Committee have, however, been categorically assured that in such an eventuality, the order of DOPT dated 10.08.2010 regarding protection of the service of the persons belonging to Halba Koshti tribe in Vidarbha region of Maharashtra due to denotification of the tribe from the Scheduled List will be complied with. The Committee would like the Ministry of civil Aviation to strictly abide by their assertion to this effect.

31. The Committee also reiterate their stand on the issue and recommend the Ministry/Organization- in particular to ensure that the interests of the employees, actually belonging to Mahadev Koli Caste are safeguarded irrespective of the fact whether the Certificate produced by such an employee was found to be listed with the Issuing Authority or not and no such genuine and bonafide employee should lose his/her job merely on the ground that his/her records were not available with the Authorities. The Committee, therefore, recommend the Ministry to specifically leave instruction with the Issuing Authorities/State Scrutiny Committee for not only verify their records but also to ascertain their caste. The Committee would like to be appraised of the action taken by the Ministry/Air India in the matter within three months.

NEW DELHI;

03 August , 2012
12 Shravana, 1934 (Saka)

**Anant Gangaram Geete,
Chairman,
Committee on Petitions.**