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**STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT
(2012-13)**

(FIFTEENTH LOK SABHA)

MINISTRY OF TRIBAL AFFAIRS

**THE CONSTITUTION (SCHEDULED TRIBES)
ORDER (SECOND AMENDMENT) BILL, 2012**

THIRTY THIRD REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2013/Phalguna, 1934 (Saka)

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Presented to Lok Sabha on 21.3.2013

Laid in Rajya Sabha on 21.3.2013



LOK SABHA SECRETARIAT

NEW DELHI

March, 2013/Phalguna, 1934(Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND
EMPOWERMENT (2012-2013)**

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri M. Anandan
3. Smt. Susmita Bauri
4. Shri Devidhan Besra
5. Shri Tarachand Bhagora
6. Smt. Rama Devi
7. Shri Gorakh Prasad Jaiswal
8. Shri Mohan Jena
9. Shri Dinesh Kashyap
10. Shri Kirodi Lal Meena
11. Kumari Meenakshi Natarajan
12. Shri Wakchaure Bhausahab R.
13. Smt. Sushila Saroj
14. Shri N. Dharam Singh
15. Shri Pradeep Kumar Singh
16. Dr. Naramalli Sivaprasad
17. Shri Lalit Mohan Suklabaidya
18. Shri Kabir Suman
19. Vacant
20. Vacant
21. Vacant

**MEMBERS
RAJYA SABHA**

22. Smt. Jharna Das Baidya
23. Shri Avtar Singh Karimpuri
- *24. Shri Rishang Keishing
25. Shri Mangala Kisan
26. Shri Ahmad Saeed Malihabadi
27. Prof. Mrinal Miri
28. Shri Jesudasu Seelam
29. Shri Mohammad Shafi
30. Shri Shivpratap Singh
31. Shri Shankarbhai N. Vegad

* Resigned from the Committee w.e.f. 22.2.2013

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kushal Sarkar - Additional Director
4. Shri Yash Pal Sharma - Senior Executive Assistant

INTRODUCTION

I, the Chairman of the Standing Committee on Social Justice and Empowerment having been authorized by the Committee to submit the Report on their behalf, do present this Thirty-third Report of the Committee on “The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012” pertaining to the Ministry of Tribal Affairs.

2. The Bill was introduced in Lok Sabha on 14.12.2012 and was referred to the Committee by the Speaker, Lok Sabha on 21.12.2012 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee wish to express their thanks to the representatives of the Ministry of Tribal Affairs, the Registrar General of India, the National Commission for Scheduled Tribes and to Ministry of Law and Justice (Legislative Department) for tendering evidence and placing their considered views before the Committee and also for furnishing written notes and information as desired by the Committee in connection with the examination of the Bill.

4. The Committee considered and adopted the report on the Bill at their sitting held on 19.3.2013.

5. For facility of reference observations/recommendations of the Committee have been printed in thick type in the body of the Report.

New Delhi;
19 March, 2013
28 Phalguna, 1934 (Saka)

HEMANAND BISWAL,
Chairman,
Standing Committee on Social
Justice and Empowerment.

REPORT

The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012 was introduced in the Lok Sabha on 14.12.2012. The Bill was referred to the Standing Committee on Social Justice and Empowerment on 21.12.2012 for examination and report thereon. A copy of the Bill as introduced in the Lok Sabha is appended **(Annexure-I)**. The Bill seeks to amend 'The Constitution (Scheduled Tribes) Order, 1950' to modify the list of Scheduled Tribes in the States of Kerala and Chhattisgarh. The Bill seeks re-inclusion of 'Marati" community of the Hosdurg and Kasargod Taluks of Kasargod district of Kerala in the list of Scheduled Tribes of Kerala and inclusion of 'Abujh Maria' and 'Hill Korwa' communities in the list of Scheduled Tribes of Chhattisgarh.

BACKGROUND

1.1 Article 366(25) of the Constitution, defines Scheduled Tribes as follows:-

“Scheduled Tribes means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution”.

1.2 The Scheduled Tribes are notified by the Presidential Order under Article 342(1) of the Constitution, which reads as follow:-

“342 Scheduled Tribes (1) The President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or group within tribes or tribal communities which shall for the purposes of this Constitution

be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clauses (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

1.3 The Ministry of Tribal Affairs, in a written note to the Committee, submitted that for the process of inclusion/exclusion/modification in the list of Scheduled Tribes, the criteria followed are:-

- (a) Indications of primitive traits;
- (b) Distinctive culture;
- (c) Geographical isolation;
- (d) Shyness of contact with the community at large; and
- (e) Backwardness

The Ministry further submitted that these criteria are not spelt out in the Constitution but have become well established and accepted.

Prescribed modalities for deciding claims on inclusion in/exclusion from and modifications in the ST list:

1.4 In accordance with the aforementioned constitutional provision and the criteria evolved, the Scheduled Tribes in relation to particular States or Union Territories were duly notified first in 1950 by an Order of the President, after consultation with the State Governments/ UT Administration concerned. As per the extant procedure, any inclusion in or exclusion from and other modifications in the list of Scheduled Tribes can be made

only through an amending Act of Parliament. In order to ensure that only genuine communities are included in the list of Scheduled Tribes, the Cabinet Committee on SCs, STs and Minorities on 15.6.1999, and further amended on 25.6.2002, had laid down the modalities for determining the claims for inclusion in, exclusion from and other modifications in Orders specifying Scheduled Castes and Scheduled Tribes lists **(Annexure-II)**. As per the modalities only those proposals, which have been justified and recommended by the concerned State Government/ UT Administration and the Registrar General of India (RGI) as well as the National Commission for Scheduled Tribes (NCST) are to be considered for amending the legislation. After the matter is approved by the Cabinet, a Bill is introduced in Parliament. In case a proposal is not supported by the RGI, it is referred back to the State Government for reviewing or further justifying their recommendation in the light of the observations of the RGI. In such cases, where the RGI does not agree to the point of view of the State Government/UT Administration on a second reference, the Government of India may consider for rejection. Those cases with which the State Governments and the RGI are in agreement, but which the Commission (NCST) have not supported, would be rejected at the level of Minister for Tribal Affairs, Government of India.

Background on proposed inclusion/exclusion/re-inclusion of 'Marati' community of Kerala:

1.5 According to Ministry of Tribal Affairs, the 'Marati' community was first included in the list of Scheduled Tribes in 1956 in the State of Kerala in **Kasargod taluk of erstwhile Malabar district** (at main Sl. No. '5'), vide the Scheduled Castes and

Scheduled Tribes list (Modification) Order, 1956. Vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976, 'Marati' (in **Hosdurg and Kasargod taluks of Cannanore district**) at Sl. No. 28 was included in the list of STs of Kerala. As per the approved modalities, on the recommendation of the State Government of Kerala, the Office of the Registrar General of India (ORGI) and the then National Commission for Scheduled Castes and Scheduled Tribes (NCSCST), the 'Marati' community was excluded from the list of Scheduled Tribes of Kerala, vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002.

1.6 The State Government of Kerala vide its letter dated 21.11.2002 recommended re-inclusion of the 'Marati' community in the list of STs of Kerala. Subsequently, the State Government, vide its letter dated 31.8.2010 recommended re-inclusion of 'Marati' community in Kasargod district only. The recommendation of the State Government of Kerala was processed as per the afore cited modalities and referred to the office of Registrar General of India, New Delhi for its views/ comments. The Registrar General of India, recommended re-inclusion of 'Marati' of the Hosdurg and Kasargod Taluks of Kasargod district of Kerala in the Scheduled Tribes list of Kerala State on 02.02.2012. The recommendations of the RGI were referred to the NCST for their comments. The National Commission for Scheduled Tribes, convened a meeting on 13.6.2012 with the Ministry of Tribal Affairs, the Registrar General of India and the Chief Secretary of Kerala to consider the proposal of State Government of Kerala for re-inclusion of 'Marati' community in the list of Scheduled Tribes in respect of the State of Kerala. The NCST recommended re-inclusion of 'Marati' community as Scheduled Tribes of Kerala as proposed.

1.7 About the inclusion of 'Marati' community of Kerala, the Secretary, Ministry of

Tribal Affairs deposed:

"In the case of 'Marati' community, if you look, I can give the chronology how it has proceeded, but I think you are aware that 'Marati' community was de-notified in January 2003 and then there was a proposal from the State Government to re-include it for Kasargod District. After it has been agreed, we have mooted this proposal".

1.8 When enquired on what grounds the Marati community was excluded from the list in 2003 and what are the grounds on which it is now proposed for inclusion in the ST list, the representative of National Commission for Scheduled Tribes submitted before the Committee:

".....On the one hand, in 2002, we proceeded with the exclusion and today we are going to re-include it. The issue is what the basis was in 2002 when we considered exclusion. We have gone through the records. We have seen that at that point of time, there was no scientific survey that was done, and there is some part which is based on the literature, on books or that sort of studies. That is a desk study. On the basis of desk study, they justified it and came out with a statement. In fact, one of the justifications was that they are caste-Hindus - it was such a solid thing – and they do not have the traits of the primitive tribes. On that basis, we cannot recommend to include it. If the State Government itself comes out with such a paper, which they say, is a supporting document for exclusion and which says that they are the caste-Hindus and do not have primitive traits, the Commission had to go by it. At that time, in 2002, the Commission was combined for SC and ST. In their wisdom, they took the view that if they were not having primitive traits and not having tribal characteristics, certainly there was no basis the Commission should justify their retention in the list. So, the Commission said 'it is okay'. But immediately after that, one of the members of our Commission visited that area, interacted with the people and gave a report that these people are similar to the people which are there in the neighbouring State, Karnataka and having the similar characteristics and they belong, more or less, to same sort of culture etc. Then, we recommended 'let us correct it and include it'. Now, from 2003 to this time, there was some delay in the responses of the State Government. In 2010 only, the State Government came out with a detailed study report, which has been done by Dr. Mercy, which has said 'Yes' for inclusion. But our member in 2003 itself had said that and we have recommended re-inclusion. That was the stand of the Commission".

1.9 When asked whether there was any field assessment in 2002 for exclusion of 'Marati' community, or any assessment or survey for re-inclusion of this community, the representative of National Commission for Scheduled Tribes apprised the Committee as follows :-

".....Certainly, this assessment was not there in 2002 when we proceeded with exclusion. Honestly speaking, I could not find it on the record. There was no assessment and it was based on the literature and desk study.

..... Today, in fact, the report of one of the research institutions the State Government had examined and the RGI also examined it, and they say that the socio-economic conditions are same as were prevailing during the period when they were included. As far as the Commission is concerned, we took a very balanced view in this particular case. We say why they should be restored again. We said that there is a logic because when we excluded them, we did not find any scientific assessment and therefore, the position should be restored as it was prevalent. That is the stand the Commission has taken on this particular issue".

1.10 Responding to a query regarding re-inclusion of 'Marati' community, the Registrar General of India submitted as follows :-

"....., as far as this proposal for re-inclusion to Marati community is concerned, since the 1950s the Marati community enjoyed the status of Scheduled Tribes (ST) both in Dakshin Kannada and Hosdurg Taluk of Kasargod of Karnataka and Kerala respectively. But when re-organisation took place in 1956, part of the community living in Kasargod went to Kerala State and remaining part went to Dakshin Kannada. So, they were included with area restrictions, but in 1978 there was a communication from the Ministry of Home Affairs where they have suggested a number of deletions. So, at that time, my office made a comment that : "We had earlier felt that they should be retained in the statutory list as long as proper justification or more information supporting their exclusion is not provided."

But later on we have made further review of these marginal cases, and they have said that : "They have no objection to their deletions if they so desire." So, as it was rightly pointed out, examination was not done at that time when the proposal came for deletion of this community, but, subsequently, the matter was again referred to us and at that time we had asked the State Government specifically that : "You cannot recommend once for deletion from the list and then again inclusion. It should be treated a little more seriously."

We have said in our report at that time that : “You are therefore requested to look into this matter carefully and if required refer this matter to the Kerala State Government seeking clarification in regard to their inconsistent approach and recommendation in the matter of Marati.” So, after this, the State Government has again given us a detailed report on the report done by an anthropologist plus other additional material from the Forest Department and from the Anthropology Department of the University of Mysore, etc. based on which we have made an assessment of the existing literature and concurred with the proposal to re-include this community into the list of STs of Kerala. So, this is how the history of the case proceeds”.

Background on proposed inclusion of ‘Abujh Maria’ and ‘Hill Korwa’ of Chhattisgarh:

1.11 According to the Ministry of Tribal Affairs, there are certain groups among Scheduled Tribes which have been declining or have stagnant population, low level of literacy, pre-agricultural level of technology and are economically backward. These groups are one of the most vulnerable sections of our society as they are few in numbers, have not attained any significant level of social and economic development and generally inhabit remote localities having poor infrastructure and administrative support. 75 such groups in 17 States and one UT have been identified and categorized as Particularly Vulnerable Tribal Groups (PTGs). Most of these groups are small in number, have not attained any significant level of social and economic progress and generally inhabit remote localities having poor infrastructure and administrative support. Priorities are, therefore, required to be accorded for their protection and development, and checking the declining trend of their population.

1.12 The communities of ‘Abujh Maria’ and ‘Hill Korwa’, though identified as PTGs, have not been enlisted in the list of STs of the State of Chhattisgarh. The Governor of Chhattisgarh had requested for enumeration for Particularly Vulnerable Tribal Group communities of ‘Abujh Maria’ and ‘Pahari Korwa’ in Census 2011, vide his letter dated

08th /09th March, 2011. The Government of Chhattisgarh had recommended inclusion of 'Abujh Maria' and 'Hill Korwa' at serial no. 16 and 27 in the list of Scheduled Tribes in Chhattisgarh vide its letter dated 26.07.2011. The office of the RGI supported the proposal on 24.10.2011 on the ground that 'Abujh Maria' is a section of Maria Gond whereas Hill Korwa or Pahari Korwa is a section of Korwa tribe. These two communities possess all tribal characteristics. They have been identified as Primitive Tribes in the States of Madhya Pradesh and Chhattisgarh because they lag far behind educationally, economically and socially than their main tribal counterpart. The RGI therefore recommend that the Abujh Maria and Hill/Pahari Korwa and may be included as one of the sections of their main tribal communities viz. Gond and Korwa respectively in the Scheduled Tribe list of Chhattisgarh through proper notification and amendment.

1.13 As required under the approved modalities, the matter was referred to the NCST for comments/views. The NCST convened a meeting on 13.6.2012 with Ministry of Tribal Affairs, RGI and the Chief Secretary of Chhattisgarh to consider the proposal of State Government of Chhattisgarh. In the said meeting it was decided that the Ministry of Tribal Affairs may immediately take steps to include the name of 'Abujh Maria' and 'Hill Korwa' along with the name of the respective Mother Tribe in the list of Scheduled Tribes of Chhattisgarh State.

1.14 Explaining the need for inclusion of 'Abujh Maria' and Hill Korwa' communities of Chhattisgarh, the Secretary, Ministry of Tribal Affairs during evidence stated :-

"....., for the 'Abujh Maria' and 'Hill Korwa' communities of Chhattisgarh, there has been a proposal for 'Abujh Maria' a particularly vulnerable tribal group. This is one of the 75 PTGs recognised in the country. Most of these PTGs have been included in the list of Scheduled Tribes. Abujh Maria and Hill Korwa communities,

though identified as PTGs, had not been enlisted as Scheduled Tribes. The Government of Chhattisgarh recommended inclusion at serial no. 16 and 27 and the Registrar General and NCST supported the proposal and, hence, we mooted the proposal to Cabinet and that is in Parliament".

1.15 The Registrar General of India also clarified during evidence :-

"As far as the other two communities, namely, the Hill Korwa and Abujh Maria are concerned, we find that there is proper justification to include Abujh Maria. It is a section of the Maria Gond, and Hill Korwa or Pahadi Korwa is a section of the Korwa Tribe. Since, they were excluded we have recommended that they should be properly included in the list of Chhattisgarh. This is the stand of the Registrar General.

..... Earlier, it was thought that the Gonds living in the Abujh Maria region were called Abujh Maria, but we have said that it should be included separately. They were already PTGs, but they were not given the ST status. We have recommended -- on getting a specific request from the State Government -- and we have concurred with the proposal to allow them to be included as a separate entry in the STs list of Chhattisgarh".

OBSERVATIONS AND RECOMMENDATIONS

1.16 "The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012" introduced in Parliament on 14.12.2012 seeks to modify the list of Scheduled Tribes in relation to the States of Kerala and Chhattisgarh. As per the Statement of Objects and Reasons of the Bill (No. 139 of 2012), this is being done "to fulfil the long standing demands for re-inclusion of 'Marati' community of the Hosdurg and Kasargod Taluks of Kasargod district of Kerala in the list of Scheduled Tribes in relation to the State of Kerala" and "for granting scheduled tribes status to the Particularly Vulnerable Tribal Groups (PTGs) namely 'Abhuj Maria' and 'Hill Korwa' in the list of Scheduled Tribes in relation to the State of Chhattisgarh.

1.17 The Committee note that the 'Marati' community of Kasargod Taluk of Malabar district was first included in the list of Scheduled Tribes in 1956 in relation to the State of Kerala. Subsequently, through an amendment Act of 1976 'Marati' community in Hosdurg and Kasargod Taluks of Cannanore district was also 'included' in the list of Scheduled Tribes of Kerala. However, on the recommendation of the State Government, the 'Marati' Community was excluded from the list of Scheduled Tribes of Kerala vide amendment Act of 2002. Surprisingly, even before the notification of the above Act of 2002 in January 2003, the Government of Kerala had another change of mind when it recommended in November 2002 for re-inclusion of 'Marati' Community in the list of STs of the State. The Committee are constrained to find that it took ten years for the RGI and NCST to re-examine the proposal of State Government and

recommend their re-inclusion in ST list on the basis of anthropological studies and field survey which established that there was no perceptible change in their socio-economic conditions as prevailing in 1956. The RGI testified before the Committee that while delisting the Community in 2002, the RGI was not fully convinced and did not find justification in it but still concurred with the proposal by stating that they (RGI) did not have objection to the deletion if the Government desired to do so. Similarly, the representative of the NCST deposed that no scientific assessment was done by NCST in 2002 and the Commission proceeded with the exclusion exercise and this was done purely based on the available literature and 'desk study'. Apparently, the Registrar General of India & National Commission for Scheduled Tribes did not exercise due diligence and care while giving their approval for exclusion of the 'Marati' community in 2002. The Committee find it intriguing that while the State Government of Kerala was mooted the proposal for re-inclusion in November 2002, the notification for delisting of 'Marati' community was brought out in January 2003. The Committee express their strong displeasure over the manner in which the Marati community was de-notified in 2003 and the inability of the RGI and the NCST to assert their independent functioning. The Committee hardly need to emphasise that the statutory/constitutional bodies should function in an objective and independent manner and should exercise utmost caution in recommending inclusion/exclusion of a community in the Scheduled Tribes lists.

1.18 The Committee find the criteria for inclusion of tribes is too subjective and somewhat archaic therefore recommend that the matter be revisited and

comprehensive criteria evolved both for inclusion and exclusion based on comprehensive anthropological and socio-economic studies and unassailable empirical evidence. Further, the Committee recommend that the entire process of consultation regarding inclusion/exclusion of castes/community in the ST list be comprehensively re-examined and the Committee apprised within 3 months of the presentation of this Report to Parliament.

1.19 In regard to inclusion of the 'Hill Korwa' and 'Abhuj Maria' communities in the Scheduled Tribe list in respect of Chhattisgarh, the Committee find no objection and accordingly, recommend their inclusion as envisaged in the Bill. The Committee, however, seek justification as to why 75 groups in 17 States and one UT, which have been identified and categorised as Particularly Vulnerable Tribal Groups (PTGs), have not yet been accorded the scheduled tribe status. The Committee would like to be apprised of the ground for not including these PTGs in the list of Scheduled Tribes of the respective States within three months of the presentation of this report alongwith the considered views of RGI, NCST and concerned States in the matter.

1.20 The Committee are baffled to note from the Statement and Objects and Reasons of the Bill that the amendment to the law is intended to "to fulfil the long standing demands" for re-inclusion/inclusion of the said communities in the list of Scheduled Tribes. Evidently, such a statement creates an erroneous impression as though castes are included in the list of Scheduled Tribes on the basis of long standing demand and not on the basis of objective criteria. The Committee, therefore, reiterate that all proposals for inclusion/exclusion of

castes in the Scheduled Tribes list should be based on objective and discernible criteria following the independent but concurring recommendations of both the RGI & NCST.

1.21 The Committee feel that while there are sufficient grounds and justification for re-inclusion of 'Marati' community in the ST list of Kerala as envisaged in the Bill and accordingly recommend the inclusion of the 'Marati' community in the ST list in respect of Kerala, they are constrained to observe that the Government did not follow the prescribed procedure in the strictest manner as required while delisting the community in 2002-2003. The Committee are distressed that a whole generation of the Marati community was deprived of the benefits of reservation between 2003 when it was delisted and 2013, when it is sought to be re-included.

Subject to these observations, the Committee recommend that the Government initiate urgent necessary action to pass the Bill in Parliament in the current Session itself so as to rectify a wrong done to the 'Marati' Community of the specified areas of Kerala and also to include the 'Hill Korwa' and 'Abhuj Maria' of Chhattisgarh in the ST lists of the respective States.

New Delhi;
19 March, 2013
28 Phalguna, 1934 (Saka)

HEMANAND BISWAL,
Chairman,
Standing Committee on Social
Justice and Empowerment.

AS INTRODUCED IN LOK SABHA

14 DEC 2012

STATEMENT OF OBJECTS AND SCOPE

Clause (2) of article 244 of the Constitution defines "Scheduled Tribes" as tribes or groups of tribes which are so designated in the Schedule to the Constitution...

2. Article 244 of the Constitution provides that the President may, on the recommendation of the President's Council, declare any tribe or group of tribes to be a Scheduled Tribe...

(3) The President may, by order, declare any tribe or group of tribes to be a Scheduled Tribe...

3. In view of the above constitutional provisions, the list of Scheduled Tribes in the States of Kerala and Chhattisgarh was notified by the President under the Scheduled Tribes Order, 1950...

Bill No. 139 of 2012

4. The members of the Tribes in Kerala and Chhattisgarh are notified in the Schedule to the Constitution...

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (SECOND AMENDMENT) BILL, 2012

A BILL

further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the States of Kerala and Chhattisgarh.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Scheduled Tribes) Order (Second Amendment) Act, 2012.

Short title.

C.O. 22

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950,—

Amendment of Part VII and Part XX of Constitution (Scheduled Tribes) Order, 1950.

5

(a) in Part VII.— Kerala, after entry 27, insert—

“28. Marati (of the Hosdurg and Kasargod Taluks of Kasargod District)”;

(b) in Part XX.— Chhattisgarh,—

10

(i) in entry 16, after “Asur”, insert “, Abhuj Maria”;

(ii) in entry 27, after “Korwa”, insert “, Hill Korwa”.

STATEMENT OF OBJECTS AND REASONS

Clause (25) of article 366 of the Constitution defines, "Scheduled Tribes as under: "Scheduled Tribes" means such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution".

2. Article 342 of the Constitution provides as under:—

"Scheduled Tribes (1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification".

3. In view of the above constitutional provisions, the first list of Scheduled Tribes in Kerala was notified vide the Scheduled Castes and Scheduled Tribes (Modification) Order, 1956. It was further amended/modified through the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 1976 [No. 108 of 1976] (dated 18th September, 1976), The 'Marati' community was excluded from the list of Scheduled Tribes of Kerala vide the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 [No. 10 of 2003] (dated 07th January, 2003).

4. The communities of "Abujh Maria" and "Hill Korwa" identified as Particularly Vulnerable Tribal Groups have not been enlisted in the list of Scheduled Tribes of the State of Chhattisgarh.

5. To fulfill the long standing demand for re-inclusion of 'Marati' community in the list of Scheduled Tribes in the State of Kerala, it is proposed on the recommendation of the State of Kerala to amend Part VII, of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 relating to Kerala and insert a new entry at Sl. No. 28 as—'Marati' (of the Hosdurg and Kasargod Taluks of Kasargod District).

6. To fulfil the long standing demand for granting Scheduled Tribes status to the Particularly Vulnerable Tribal Groups namely "Abujh Maria" and "Hill korwa" in the list of Scheduled Tribes in the State of Chhattisgarh, it is proposed on the recommendation of the State of Chhattisgarh to amend the entry at Sl. No. 16 and 27 occurring under Part XX of the Schedule to the Constitution (Scheduled Tribes) Order, 1950, relating to Chhattisgarh and insert a new entry "Abujh Maria" after Asur at Sl. No. 16 and a new entry at Sl No. 27 of "Hill Korwa" after Korwa.

7. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 11th December, 2012.

V. KISHORE CHANDRA DEO

FINANCIAL MEMORANDUM

The Bill seeks to amend the Constitution (Scheduled Tribes) Order, 1950 by inserting a new entry at Sl. No. 28 in the list of Scheduled Tribes of Kerala State as—'Marati' (of the Hosdurg and Kasargod Taluks of Kasargod District) and in the list of Scheduled Tribes of Chhattisgarh State, a new entry "Abujh Maria" after Asur at Sl. No. 16 and a new entry of "Hill Korwa" after Korwa at Sl. No. 27.

2. The amendment in the list of Scheduled Tribes of Kerala and Chhattisgarh will entail additional recurring expenditure from the Consolidated Funds of India on account of benefits likely to be provided to the persons belonging to 'Marati', 'Abujh Maria' and 'Hill Korwa' communities out of continuing schemes meant for the welfare of the Scheduled Tribes. The same will be accommodated within the Annual Plan and non-Plan outlay of the Ministry.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION (SCHEDULED TRIBES) ORDER, 1950.

(C.O. 22)

* * * * *

PART VII.—Kerala

28. Omitted

PART XX.—Chhattisgarh

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16. Gond, Arakh, Arrakh, Agaria, Asur, Badi Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Kolibhuti, Bhar, Bisonhorn Maria, Chota Maria, Dandami Maria, Dhuru, Dhurwa, Dhoba, Dhulia, Dorla, Gaiki, Gatta, Gatti, Gaita, Gond, Gowari Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Nagwanshi, Ojha, Raj Gond, Sonjhari, Jhareka, Thatia, Thotya, Wade Maria, Vade Maria, Daroi.

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27. Korwa, Kodaku

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LOK SABHA

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further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the States of Kerala and Chhattisgarh.

(Shri V. Kishore Chandra Deo, Minister of Tribal Affairs)

Modalities for deciding claims for inclusion in, exclusion from and other modifications in the Orders specifying Scheduled Castes and Scheduled Tribes lists.

Modalities for deciding claims for inclusion in, exclusion from and other modifications in the Orders specifying Scheduled Castes and Scheduled Tribes have been notified. Such proposals are required to be processed as indicated below :-

(a) Cases favoured by both the State Governments and the Registrar General of India (RGI) in their most recent reports would be referred to the National Commission for Scheduled Castes and Scheduled Tribes for their opinion. They would be forwarded to the Commission individually or in batches, as may be practicable, along with the comments of the State Governments and the RGI as well as any relevant material/information furnished by them or by representations.

(b) Some issues concern not one but several States e.g. the status of SC/ST migrants. These would also be referred to the National Commission if the RGI and majority of concerned States have supported modification.

(c) It may be suggested to the Commission that, while examining the above cases, they should associate, through panels or other means, expert individuals, organizations and institutions in the fields of anthropology, ethnography and other social sciences, in addition to the State Governments, RGI and the Anthropological Survey in India, on regional basis. They may also consider holding public hearings in areas relevant to the claims under examination. These guidelines cannot be binding on the Commission, but may be suggested in the interest of fuller examination of the cases. The Commission would also be requested to give priority to cases in which the Courts have given directives regarding decision within a stipulated time period. (In such cases, extension of time would be sought from the courts where necessary, citing these modalities for the determination of claims). Such cases would be separately processed and sent for earlier decision.

(d) Amending legislation would be proposed to the Cabinet in all cases in which the National Commission, RGI as well as the State Governments have favoured modification. Those cases with which the State Governments and the RGI are in agreement, but which the Commission have not supported, would be rejected at the level of Minister for Social Justice and Empowerment.

(e) Claims for inclusion, exclusion or other modifications that neither the RGI nor the concerned State Governments have supported would not be referred to the National

Commission. These would be rejected at the level of the Minister for Social Justice and Empowerment.

(f) In case of claims recommended by the concerned State Governments/Union Territory Administrations, but not agreed to by the Registrar General of India, the concerned State Government/Union Territory Administration would be asked to review and further justify their recommendations in the light of the comments of the RGI. On receipt of the further clarification from the State Government/Union Territory Administration, the proposal would be referred to the RGI for comments. In such cases, where the RGI does not agree to the point of view of the State Government/Union Territory Administration on a second reference, the Government of India may consider rejection of the said proposal.

(g) Claims in respect of which the comments of either the RGI or the State Government or of both are awaited would remain under consideration until their views are received. Thereafter, they would be dealt with in accordance with the modalities at (a) to (f) above.

(h) Claims recommended suo-moto by the National Commission would be referred to RGI and the State Governments. Depending on their responses, they would be disposed of in accordance with the modalities at (d) to (f) as may be applicable.

(Note :- The Note for the 'Cabinet Committee on Scheduled Castes, Scheduled Tribes and Minorities' moved by Ministry of Social Justice & Empowerment, vide their Note No. 12016/36/96-SCD(RL Cell) dated 17.12.1998 and Note dated 17.01.2002)

**MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE ON
SOCIAL JUSTICE AND EMPOWERMENT HELD ON THURSDAY, 7TH
MARCH, 2013**

The Committee met from 1500 hrs. to 1550 hrs. in Committee Room 'E',
Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

2. Shri M. Anandan
3. Smt. Susmita Bauri
4. Shri Devidhan Besra
5. Smt. Rama Devi
6. Shri Mohan Jena
7. Kumari Meenakshi Natarajan
8. Shri Wakchaure Bhausahab R.
9. Shri Lalit Mohan Suklabaidya

**MEMBERS
RAJYA SABHA**

10. Shri Avtar Singh Karimpuri
11. Shri Ahmad Saeed Malihabadi
12. Prof. Mrinal Miri

LOK SABHA SECRETARIAT

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| 1. | Shri Devender Singh | - | Joint Secretary |
| 2. | Smt. Anita Jain | - | Director |
| 3. | Shri Kushal Sarkar | - | Additional Director |

REPRESENTATIVES OF THE MINISTRY OF TRIBAL AFFAIRS

Sl. No.	Name	Designation
1.	Smt. Vibha Puri Das	Secretary
2.	Shri A.K. Dubey	Joint Secretary

REPRESENTATIVE OF THE MINISTRY OF HOME AFFAIRS

Dr. C. Chandramouli	Registrar General of India
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REPRESENTATIVE OF THE NATIONAL COMMISSION FOR SCHEDULED TRIBES

Name	Designation
Shri Aditya Mishra	Joint Secretary

REPRESENTATIVE OF THE MINISTRY OF LAW & JUSTICE

Smt. Sharda Jain	Joint Secretary & Legislative Counsel
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2. At the outset, the Chairman welcomed the representatives of the Ministry of Tribal Affairs, Registrar General of India, National Commission for Scheduled Tribes and Ministry of Law & Justice to the sitting of the Committee. He then asked the Secretary, Ministry of Tribal Affairs to brief the Committee on the contents of "The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012" as well as its objects and reasons.

3. Thereafter, the Members raised various queries, which *inter-alia* included :-

- (i) Criteria for inclusion in/exclusion from the Scheduled Tribes list.
- (ii) Need to conduct a fresh survey of communities.
- (iii) Rationale for exclusion and subsequent re-inclusion of 'Marati' community in Scheduled Tribe List.
- (iv) Traits of Particularly Vulnerable Tribal Groups (PTGs).

4. The Committee also directed that recent anthropological literature for examining the proposals be submitted to them.

5. The representatives of the Ministries/Commission responded to the queries raised by the Members to the extent possible. The Chairman directed them to furnish replies to those points which could not be replied to in the meeting.

6. Before concluding, the Chairman thanked the representatives of the Ministries/Commission for giving valuable information to the Committee on the Bill and expressing their views in a free and frank manner on the issues and questions posed to them.

7. A verbatim record of the proceedings has been kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE TENTH SITTING OF THE STANDING COMMITTEE ON SOCIAL JUSTICE AND EMPOWERMENT HELD ON TUESDAY, 19TH MARCH, 2013.

The Committee met from 1500 hrs. to 1530 hrs. in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

SHRI HEMANAND BISWAL - CHAIRMAN

**MEMBERS
LOK SABHA**

24. Shri M. Anandan
25. Shri Devidhan Besra
26. Shri Dinesh Kashyap
27. Kumari Meenakshi Natarajan
28. Shri Wakchaure Bhausahab R.
29. Shri Lalit Mohan Suklabaidya

RAJYA SABHA

8. Prof. Mrinal Miri
9. Shri Mohammad Shafi

LOK SABHA SECRETARIAT

1. Shri Devender Singh - Joint Secretary
2. Smt. Anita Jain - Director
3. Shri Kushal Sarkar - Additional Director

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee and apprised them that the sitting had been convened for consideration and adoption of the draft (Thirty-third) Report of the Committee on "The Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2012".

3. The Committee then took up for consideration of the draft Thirty-third Report and adopted the same with minor addition. The Committee authorized the Chairman to finalize the draft Report and present the same to Parliament.

The Committee then adjourned.