

**COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

TWENTY THIRD REPORT

ON

MINISTRY OF HOME AFFAIRS

Action taken by the Government on the recommendations contained in the Thirteenth Report (Fifteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject “Termination of 10 SC ex-teachers appointed by NSES of NDMC on contract basis during SRDs 2005 and 2007”.

Presented to Lok Sabha on 26.11.2012

Laid in Rajya Sabha on 26.11.2012



**LOK SABHA SECRETARIAT
NEW DELHI**

26 November, 2012/5 Agrahayana, 1934 (Saka)

CONTENTS

Page

COMPOSITION OF THE COMMITTEE.....

INTRODUCTION.....

CHAPTER I	Report.....	1
CHAPTER II	Recommendations/Observations which have been accepted by the Government.	50
CHAPTER III	Recommendations/Observations which the Committee do not desire to pursue in view of the replies of the Government.....	53
CHAPTER IV	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.....	55
CHAPTER V	Recommendations/Observations in respect of which final replies of the Government have not been received.....	65

APPENDICES

APPENDIX I	Minutes of the sitting of the Committee held on 21.12.2011	86
APPENDIX II	Minutes of the sitting of the Committee held on 13.02.2012	88
APPENDIX III	Minutes of the sitting of the Committee held on 26.06.2012	93
APPENDIX IV	Minutes of the sitting of the Committee held on 22.08.2012	95
APPENDIX V	Minutes of the sitting of the Committee held on 17.09.2012	98
APPENDIX IV	Analysis of the Action Taken by the Government on the recommendations contained in the Thirteenth Report (Fifteenth Lok Sabha).....	100

**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED
CASTES AND SCHEDULED TRIBES (2012-2013)**

Shri Gobinda Chandra Naskar - Chairman

MEMBERS - LOK SABHA

2. Shri M. Anandan
3. Shri Bhudeo Choudhary
4. Smt. Santosh Chowdhary
5. Smt. Jyoti Dhurve
6. Shri Premchand Guddu
7. Smt. Paramjit Kaur Gulshan
8. Dr. M. Jagannath
9. Shri Mohan Jena
10. Shri Mohinder Singh Kaypee
11. Shri Mithilesh Kumar
12. Shri Arjun Ram Meghwal
13. Shri Bharat Ram Meghwal
14. Shri Ashok Kumar Rawat
15. Shri Bajju Ban Riyan
16. Smt. Rajesh Nandi Singh
17. Dr. Kirit Premjibhai Solanki
18. Shri Lalit Mohan Suklabaidya
19. Shri Bhausaheb Rajaram Wakchaure
20. Vacant*

MEMBERS - RAJYA SABHA

21. Shri Thaawar Chand Gehlot
22. Shri Rishang Keishing
22. Shri Faggan Singh Kulaste
24. Shri Lalhming Liana
25. Dr. Bhalchandra Mungekar
26. Shri D. Raja
27. Shri Nand Kumar Sai
28. Shri Ishwar Singh
29. Shri Veer Singh
30. Shri A.V. Swamy

*Vacant due to appointment of Shri Porika Balram Naik, as MoS vide Cabinet Secretariat order No. 1/34/1/2012, dated 28.10.2012

SECRETARIAT

- | | | | |
|----|--------------------|---|---------------------|
| 1. | Dr. R.K. Chadha | - | Joint Secretary |
| 2. | Shri Hardev Singh | - | Director |
| 3. | Shri S. Chatterjee | - | Additional Director |
| 4. | Smt. Sunita Sharma | - | 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 Twenty Third Report (Fifteenth Lok Sabha) on Action Taken by the Government on the recommendations contained in their Thirteenth Report (Fifteenth Lok Sabha) on the Ministry of Home Affairs regarding "Termination of 10 SC ex-teachers appointed by NSES of NDMC on contract basis during SRDs 2005 and 2007".

2. The draft Report was considered and adopted by the Committee on 17th September, 2012.

3. The Report has been divided into the following Chapters:-

- I. Report
- II. Recommendations/observations, which have been accepted by the Government.
- III. Recommendations/observations which the Committee do not desire to pursue in view of replies of the Government.
- IV. Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.
- V. Recommendations/observations in respect of which final replies of the Government have not been received.

4. An analysis of the Action Taken by the Government on the recommendations contained in the Thirteenth Report (Fifteenth Lok Sabha) is given in Appendix-VI. It would be observed therefrom that out of total 44 Observations/Recommendations 34 observations and 10 recommendations in part II (A&B) of the Report , final replies of the Government have not been received in respect of 34 observations in Part II (A) of the Report 3 recommendations in Part II (B) of the Report , i.e. 30 per cent have been accepted by the Government. The Committee do not desire to pursue 2

recommendations of Part II (B) of the Report i.e. 20 per cent of the total recommendations in view of the replies of the Government. There are 5 recommendations of Part II (B) of the Report i.e. 50 per cent in respect of which replies of the Government have not been accepted by the Committee and which require further reiteration.

NEW DELHI
26 November, 2012
5 Agrahayana, 1934(Saka)

(GOBINDA CHANDRA NASKAR)
Chairman
Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes

CHAPTER I

REPORT

This Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes deals with the action taken by the Government on the recommendations contained in their Thirteenth Report (Fifteenth Lok Sabha) on the Ministry of Home Affairs regarding "Termination of 10 SC ex-teachers appointed by Navyug School Educational Society of New Delhi Municipal Council on contract basis during Special Recruitment Drives 2005 and 2007."

1.2 The Thirteenth Report was presented to Hon'ble Speaker on 1.6.2011 under Direction 71A of the Directions by the Speaker, Lok Sabha when Lok Sabha was not in session. Subsequently, the Report was presented to Lok Sabha and laid in Rajya Sabha on 6.9.2011. In the meantime, the Ministry of Home Affairs vide their OM No. 16015/1/2011-Delhi-II dated 20.7.2011 had furnished their Action Taken replies which were incomplete and not in proper format. The Ministry did not offer their comments on the observations made by the Committee in Part-II of their 13th Report. Further, the Ministry just reproduced the reply submitted by the Navyug School Educational Society (NSES) without offering their own comments. The Ministry of Home Affairs were silent even on the observations/recommendations directly related to them. Also, the Ministry or NSES did not consult the Department of Personnel & Training on certain points before furnishing their replies. The Committee, therefore, took fresh evidence of the representatives of the Ministry of Home Affairs and NDMC on 21.12.2011. Subsequently, the Ministry of Home Affairs furnished their replies on certain points vide O.M. No. 16015/1/2011-Delhi-II dated 24.01.2012.

1.3 The Committee had recommended that the Ministry should undertake an extensive drive to check the present recruitment procedure in vogue in NSES and report to the Committee the discrepancies noticed by them during verification of all rosters, cases of regularization of contract/ad hoc teachers since the inception of NSES as also the irregularities in recruitment drive 2008.

1.3A In response the Ministry of Home Affairs vide their OM No. 16015/1/2011-Delhi-II dated 2nd December, 2011, inter-alia stated that the Ministry had directed the Government of NCT of Delhi to get the matter inquired into in view of discrepancies and irregularities as pointed out by the Committee and that Shri R. Chandramohan, IAS, Principal Secretary – cum – Commissioner (Transport), Government of NCT of Delhi, a senior officer, empanelled by the Government of India for Secretary level posts, had been designated as the inquiring authority for the purpose.

1.4 The Inquiry Committee arrived at the following conclusions:

1. The Reservation Roasters needs to be recast by NSES and reservation points noted post wise and subject wise as the vacancy arises;
2. The backlog in unfilled reserved vacancies in a Recruitment Year should be carried over to the next Recruitment year as per rules and the same cannot be cancelled/erased by amending the Recruitment Rules prospectively;
3. The contractual appointees of 2005 against backlog reserved vacancies only should be regularized as the Selection Process was elaborate and as per the approved RR's and established practice followed while making regular appointments.
4. The backlog in reserved vacancies in respect of PGT's against the Direct Recruitment Quota should be readvertised subjectwise as per the relevant RR's and filled up. The unfilled reserved vacancies against Departmental Quota should also be got filled up by Direct Recruitment;
5. In respect of regularization of ad-hoc/contract employees the policy of BOG should be uniform without any distinct ion between Non-Teaching and Teaching staff;

6. In the recruitment made in 2008, the selection and appointment of candidates should be limited to the number of vacancies notified in the press and the appointment of Non SC/ST candidates against reserved vacancies for SC and STs should be got rectified.

1.5 The Ministry of Home Affairs received Report of the Inquiry Committee on 2 April, 2012. The Ministry of Home Affairs, after consultation with the NDMC, informed the Committee vide their O.M. No. 16015/1/2001-Delhi-II dated 21 June, 2012 that the following action was being taken:

1. The recruitment drive in 2008 is being cancelled in view of the glaring irregularities in the process;
2. The contract/ad hoc teachers cannot be regularized since the advertisement was for contractual appointment;
3. The recommendations of the Inquiry Authority on policy of reservation followed by NSES, have referred to DoPT for their views.

1.6 The Committee again took evidence of the representatives of the Ministry of Home Affairs on 26 June, 2012. During evidence, the Secretary, Ministry of Home Affairs, Government of India stated that "in respect of appointment of 10 SC ex-teachers, they would give directions which are legal and that they cannot give directions which are not supported by law. He further stated that Committee had full power to give recommendations and directions to the Government. The Government will take decision after consideration and give directions to NDMC which are legal only." (original in Hindi) [Page 12 & 15 of proceedings]

1.7 During evidence, the Committee felt that the services of 10 SC ex-teachers were terminated for no fault of theirs and that they were the sufferers. The Committee reiterated their recommendation that these teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be restored. The Committee also reiterated that the Government should take positive steps to appoint these aggrieved 10 SC ex-

teachers as early as possible, as now they are over aged and thus not eligible for applying for other such jobs in the Government.

1.8 The Committee took further evidence of the representatives of the Ministry of Home Affairs and New Delhi Municipal Council (NDMC) on 22 August, 2012. The representatives of the Ministry of Home Affairs and NDMC briefed the Committee about the current status of the matter and replied to the clarifications sought by the members. The Committee once again strongly reiterated their earlier recommendation that the Government should take positive steps to reinstate the 10 SC ex-teachers of the Navyug Schools at the earliest. The Committee also decided to recommend to the Government that the 10 SC ex-teachers of the Navyug Schools may be regularized against the backlog vacancies, if any and in case sufficient number of backlog vacancies were not there to accommodate all the ex-teachers, the remaining teachers may be regularized against future vacancies, as and when they arise. Some members of the Committee also desired *inter alia*, that

- (i) action may be initiated under SCs and STs (Prevention of Atrocities) Act, 1989 against the erring officials responsible for irregularities in the recruitment process of 2005 and 2007 in the Navyug Schools; and
- (ii) reasons may be furnished for regularization of other categories of persons in the NDMC, etc.

1.9 Replies of the Government received in respect of the observations/recommendations contained in the Thirteenth Report on the subject have been examined and have been categorised as under:-

- (i) Observations/Recommendations which have been accepted by the Government. (Part II B.2.2, 5 and 9)
- (ii) Observations/Recommendations which the Committee do not desire to pursue in the light of the replies received from the Government.(Part II-B. 3 and 4)
- (iii) Observations/Recommendations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration. (Part II-B. 1,6,7, 8 and 10)

(iv) Observations/Recommendations in respect of which final replies of the Government have not been received.(Part II A. 1 to 34)

1.10 The Committee will now deal with the action taken by the Government on some of the recommendations which need reiteration or comments.

PART II

A. OBSERVATIONS

1. The Navyug School Educational Society (NSES) was registered in December, 1992 under the Societies Registration Act, 1860. It is 100% financed by the New Delhi Municipal Council (NDMC). The objects for which the Society is established inter alia are to establish, endow, maintain, control and manage Navyug Schools. The organizational set up of the NSES consists of Board of Governors (Governing Body) and General Body. The Board of Governors is reported to consist of 8 members including Chairman, NDMC as the Chairperson of the Board of Governors. All the members are reported to be nominated by the Chairperson. The Committee note that not less than 4 distinguished academicians/educationists are also nominated by the Chairperson as co-opted members of Board of Governors. In the past, Director (Estate Enforcement) NDMC was said to be nominated as the representative of the SC/ST in the Board of Governors. According to Memorandum of Association of the Society, the Board of Governors of NSES is the supreme body of the Society, whose decision in all matters not expressly expressed provided for in the rules shall be final. Further it has inter alia the powers to appoint teachers and other staff of different schools run by or under the Society. The Committee further note that the Board of Governors has delegated full powers of appointment to the Chairperson on 27th March, 1995. The Committee observe that the Chairperson, NDMC is, therefore, empowered to act on behalf of the supreme body of the NSES besides having the power to nominate the members of the Board of Governors of NSES.

2. The SC ex-teachers through their various representations have submitted that they were recruited by NSES through Special Recruitment Drive for SCs/STs in the years 2005 and 2007 as PG/TG/Primary Teachers on contract basis. They claim that

Special Recruitment Drive for SCs/STs were meant to fill up vacancies only on regular basis. However, NSES appointed them deliberately on contract basis. Instead of regularizing their services as was the procedure, their services were terminated since April, 2009 and now that they are jobless and some of them are over-age. It was also stated in their representation that despite their case was placed before various authorities of Government of India, the Ministry of Home Affairs have not taken final decision in the matter. The Committee feel services of all the SC ex-teachers had been terminated after they had worked for more than two years in Navyug Schools.

3. In regard to Special Recruitment Drives conducted in 2005, 2006 and 2007 for recruitment of SC teachers, the Ministry of Home affairs have reiterated that they were appointed on purely contract basis subject to condition that this contract appointment would not confer on them any claim for regular appointment and their services can be terminated any time without assigning any reason. The Committee observe that some of SC ex-teachers had been working prior to 2005. The Committee feel that services of SC ex-teachers should not have been renewed after completion of their contract period. By renewing their contract period every now and then, NSES in a way raised their hope for getting absorbed in future. By adding "Special Drive for SC/ST" in the advertisement in 2005 and 2007, NSES confused one and all into thinking that posts advertised were in pursuance of DoP&T orders dated 5th August, 2004 for country-wide special drive undertaken to fill up SC/ST backlog vacancies.

4. The Committee had specifically asked as to why no regular recruitment drive was conducted to fill up SC/ST backlog vacancies before 2008, the reply was not specifically answered. It was stated that NSES filled up the posts of PGT, TGT and Primary Teachers on contract basis during the years 2005 to 2007 against promotion

as well as direct recruitment quota. It was further added that as filling up the posts on regular basis could have consumed considerable time and non-availability of the teachers would have adversely affected the studies of the students, the contractual appointments were made considering the extant administrative exigencies and pressing academic requirements. The Committee are distressed to note that NSES instead of conducting regular recruitment for regular SC/ST vacancies resorted to contractual appointments continuously for 3 years in a row. The Committee may agree to some extent with the stand of the Government that the regular appointments are made strictly in conformity with the regulations envisages holding of a written subject test, interview, etc. which is a much more comprehensive and rigorous process than that of contractual appointments which is restricted to walk-in-interview only. Yet it is a matter of concern that because of wrong policy to recruit candidates on contract basis, services of teachers had not been regularized.

5. The Committee note that NSES advertised 73, 19 and 37 posts for PGT/TGT and Primary Teachers on contract basis during the years 2005, 2006, 2007 respectively. The Committee were informed that NSES recruited these teachers on contract basis just to fill up promotional and direct recruitment quota till regular recruitment/promotion by the SC/ST teachers. The Committee regret that even though those SC ex-teachers were recruited against regular vacancies of promotion and direct recruitment quota, they were thrown out of job just because they were recruited on contractual basis. When recruitment to a post is made both by promotion and direct recruitment, reserved vacancy falling in promotion quota which cannot be filled due to non availability of eligible persons belonging to SC/ST in the feeder cadre can be temporarily diverted to the direct recruitment quota and filled by recruitment of candidates belonging to SC/ST as the case may be vide DoP&T order No. AB/4017/30/89-ESst(RR) dated 10th July, 1990. The logic of NSES resorting to

contractual appointment to ensure that there is no problem with regard to studies of children studying in Navyug Schools may hold good if done once in a while but repeating it year after year appears to be a deliberate attempt to deprive the eligible PGT/TGT/Primary Teachers of their fundamental right to employment. Having contract teachers to fill the gap for regular teachers will only hamper the proper education of children as there will be no motivation for them to work hard. The teachers may also not be able to give their best as they are hired for a limited period. Hiring a large number of teachers every year on contract basis and firing them after every contract period or so is very unfortunate for the school children of Navyug Schools. Not having a regular recruitment just because it consumes considerable time and non-availability of the teachers would have adversely affected the studies of the students appears to be unconvincing as there seems to be lack of proper planning for recruitment of teachers.

6. From the reply given by the Ministry of Home Affairs and NDMC, it is clear that they never treated Special Recruitment Drive for SCs/STs undertaken in 2005 to 2007 as Special Recruitment Drive to fill up backlog vacancies as envisaged in DoP&T orders of 2004 and stressed that it was purely contractual appointment to fill up both promotional and direct recruitment posts. The representative of DoP&T admitted that the point that SC/ST vacancies had been filled up on contract basis was never raised before them while they were taking up meetings with the concerned officers of the Ministries and the Departments in pursuance of launching of Special Recruitment Drive in 2004. It has also been submitted by the representative that they were told by NDMC that Special Recruitment Drive conducted by them was not against backlog reserved vacancies but in regard to filling up the vacancies that were reserved for SCs/STs and OBCs for which they had not got candidates. The Committee regret that the contractual appointments were undertaken to fill up

shortfall of SC/ST/OBC vacancies through the Special Recruitment Drive, which NSES should have done through regular recruitments but not through Special Recruitment Drive.

7. During evidence held on 7th January, 2011, the representative of DoP&T explained the difference between backlog and shortfall. A backlog reserved vacancy is one which was reserved in a previous recruitment year and an effort was made to fill it up but it could not be filled up. Such reserved vacancy cannot be filled up by any other candidate and these vacancies are kept vacant and become backlog reserved vacancies for the subsequent recruitment year. In the case of shortfall it was explained that in the post based roster if at any point of time in a cadre of 100 posts the number of SC candidates appointed by reservation is less than 15 i.e. say 10 then there is a shortfall of five SC posts.

8. On the basis of the explanation given by DoP&T, it is evident that those were unfilled vacancies of SC/ST teachers for which NSES conducted Special Drive in 2005 to 2007. These vacancies could not be treated as backlog reserved vacancies since NSES had not made any effort to fill those vacancies in previous recruitment years and they were treating those vacancies as unfilled. But when it was announced by DoP&T to fill up all backlog vacancies of SCs/STs in 2004, the Committee feel that NSES found an escape route to have Special Drive for SCs/STs on contract basis to cover their inadequacies. While deposing before the Committee, Home Secretary had opined that the posts were all regular but the appointment of 10 SC ex-teachers were on contract basis. The ideal thing would have been for the NDMC or the Society at that time was to have regular appointments by having an examination, the interview and then made the regular appointments. It is, therefore, amply clear that NSES had not been filling up vacant SC/ST posts regularly and kept all SC/ST posts vacant for reasons best known to it. Since no efforts were made to

fill these up by regular recruitment, they could not conduct Special Recruitment for backlog vacancies in pursuance to DoP&T orders of 5th August 2004 and tried to fill up by contractual appointment.

9. In regard to regularization of services of SC ex-teachers it has been claimed that since they were appointed on contract basis, their services cannot be regularized. In this connection, it was tried to explain the difference with contract appointment and regular appointment. It was also stated that on contract appointment, the minimum standard is to be met and need not be meritorious.

10. The Committee note that no teaching staff were regularised by NSES since 1999. However, NSES did not provide information about the non-teaching staff regularised by BoG of NSES. The Committee have come to know that NSES was regularising General category teaching and non-teaching staff who were recruited without any interview and working on contract/ad-hoc basis since its inception, for example Shri Rakesh Tyagi, PGT (Physics) who was working in NSES since January, 1994 on contract basis, was regularised in August, 1994 w.e.f. January, 1994 and Shri Dinesh Kumar who was also recruited by NSES in January, 1994 on contract basis and was regularised in August, 1994 w.e.f. from initial appointment on contract basis. Shri Anil Kumar Singh, PGT (School Councilor) joined on contract basis in 1994 and was regularised in 1999 against backlog vacancy of SC/ST. All these three were recruited by NSES without any interview and their services were regularized. The Committee firmly believe that there would be many more such cases of recruitment/regularisation of teachers in NSES.

11. The Committee also observe from the list of 22 (1 teaching and 21 non-teaching staff) obtained by the petitioners from NSES vide NSES RTI Reply vide letter No. 1872/NSES/M.SECY/2010 dated 11.8.2010 that BoG of NSES kept regularising General category teaching and non-teaching staff who were recruited

without any interview and were working on contract/ad-hoc basis, particularly 3 non-teaching staff in the year 2008. In regard to regularizing the contract SC ex-teachers, the Home Secretary cited the Supreme Court judgement which came in 2006 according to which it was stated that contractual appointment cannot be regularized against regular posts unless for very special circumstances. Otherwise it is stated that there would have been no problem for NSES to regularize. The Committee feel that while the non-teaching staff could be regularised by NSES despite Supreme Court judgement then what is the problem in regularising the contract ex- teachers.

12 The Committee note that the NCSC -- a constitutional body -- in their letter accept the earlier report of NSES and agreed with the report that the contract posts could not be filled up. However, the NCSC reviewed its earlier opinion and observed in their letter dated 26th November, 2010 that the grievances of the petitioners were genuine one and first opportunity should have been given to the teachers already working and having good academic teaching records and that NDMC could not arbitrarily change rules and deprive the most eligible and competent people from joining permanent jobs.

13 The Committee refuse to accept the argument of Ministry of Home Affairs and NSES that the contract teachers could not be regularised in view of ruling of the Supreme Court particularly in view of 'Uma Devi case'. The Committee want to point out the facts that the case referred to by the Ministry of Home Affairs and NSES i.e. 'Uma Devi' case is related to a general category contract employee. Moreover, the Committee note that several non-teaching contract teachers were regularised by the BoG of NSES even after the above referred ruling of the Supreme Court. Further, the Committee desire to invite attention of both the Ministry of Home Affairs and NSES to the recent ruling of the Supreme Court given in March, 2011 in which the Court expressed its displeasure at the Boarder Road Organisation's treatment of

casual workers. The Supreme Court has deprecated the Union of India engaging casual workers and keeping them in temporary service for long without making them permanent employees, thereby denying the benefits due to them. In the instance case, the Union of India appealed against the Guwahati High Court judgement directing the government to regularise the services of members of Vartak Labour Union, some of whom had been working with the BRO for 30 years. Though the Bench of the Supreme Court observed that “casual employment terminates when the same is discontinued and merely because a temporary or casual worker has been engaged beyond the period of his employment, he would not be entitled to be absorbed in regular service or made permanent, if the original appointment was not in terms of the process envisaged by the relevant rules”, the Bench ruled that “however, in the facts and circumstances of the case, where the union members had been employed in terms of the regulations and had been consistently engaged for the last 30 to 40 years, of course with short breaks, “We feel the Union of India would consider enacting an appropriate regulation/scheme for absorption and regularisation of the services of casual workers engaged by the BRO for execution of its on-going projects.” The Committee feel that the case of aggrieved SC ex-teachers is also not much different to the above case. These teachers were also engaged through “Special Recruitment Drives” but on contract basis against the governments orders.

14. In regard to recruitment procedure it is understood from the representative of NSES that prior to 2008 no written examination was conducted by NSES for regular appointment of teachers. Prior to 2008, it was stated that the number of posts were less and so were the applicants. NSES used to do short-listing on the basis of academic performance of the candidates followed by interviews and as such there was no need to conduct written examination. In this connection, SC ex-teachers have claimed that they were appointed as PGT/TGT/Primary Teachers on contract

basis following the procedure as at para 43. In reply, NDMC has inter alia stated no contractual teacher has been regularized by NSES during the last ten years.

15. The Committee are surprised over the reaction of the NSES that if the Society had violated the guidelines and made illegal appointment on contractual basis as alleged by the petitioners in their representations, all the persons who were taken on contractual basis were illegally or irregularly appointed and such illegally or irregularly appointee cannot claim that Society should commit another irregularity and illegality and appoint them on a regular basis without following regular procedure for regular appointments.

16. It was observed that vacancies for PGT were filled up on contract basis in the years 2005, 2006 and 2007 but the same vacancies were not notified when regular recruitment was carried out. When enquired, it was informed that the Board of Governors accepted the proposal on 24th March, 2008 according to which there should be 100% promotion in PGT post and if these cannot be filled up on promotion then by direct recruitment and not on contract basis. The Committee were informed that NSES made amendments in Recruitment Rules as per the requirement of the Department and demand of the staff with the approval of the competent authority. The amendment was unnecessary and seem to have been made to stop two SC PGTs from applying against direct recruitment in 2008.

17. The Committee feel that the reasons forwarded by NSES that the RRs for various posts have been framed and modified from time to time according to the requirement of the department and with the approval of the competent authority i.e. Chairman, NSES/NDMC, as ridiculous. The Committee note that the RRs were changed regularly by the BoG of NSES even for the same post in every year which the Committee understand, is to give benefit to favourite candidates of NSES. The Committee also noted that NSES never bothered to consult DoP&T or its nodal

Ministry i.e. Ministry of Home Affairs before framing/amending the RRs and always follows its BoG.

18. To a point raised by the aggrieved SC ex-teachers that as per DoP&T OM No.AB/14017/22/89-Estt (RR) dated 15th May, 1989 that while framing /amending rules it should be ensured that the interest of SCs/STs are not adversely affected and not aimed to block the entry of direct recruit and also not to fill up backlog reserved vacancies. It was stated that the amendment carried out on 24th March, 2008 by which filling up of PGT posts from 25% by direct recruitment and 75% by departmental promotion was changed to 100% departmental promotion failing which by direct recruitment, 2 SC ex-teachers were deprived. In reply, NDMC denied the allegation and reiterated that there is still provision of filling up of post of PGT by direct recruitment if the eligible candidates are not available in the feeder cadre as per modified and approved Recruitment Rules. In this connection, the copy of the minutes of meeting by which the amendment was carried out on 24th March, 2008 were seen. It does not have a provision that 100% departmental promotion for PGT posts will go to direct recruitment. Moreover, when the posts are filled up by 100% departmental promotion, such posts cannot be filled up by diverting the same to direct recruitment as per the DoP&T OM No.AB/4017/30/89-Estt (RR) dated 10th July, 1990. The case in point is that of Shri Rahul Sultana and Shri Hakam Singh. Shri Rahul Sultana working since 2003 as teacher in Navyug School. He and Shri Hakam Singh were selected as PGT (Computer Science) and PGT (Economics), respectively under Special Recruitment Drive for SCs and STs in 2005 and 2007, respectively. They were fulfilling all the criteria to apply for regular PGT post. However, they were deprived from applying for PGT posts in regular recruitment conducted in 2008 by citing the above amendment in Recruitment Rules. The Committee recall that the instructions provided in DoP&T OM No.AB/14017/22/89-Estt (RR) dated 15.5.1989

states that while framing/amending rules, the interest of SCs/STs are not adversely affected, are kept in view to block the entry of direct recruitment and also not to fill up the backlog of reserved vacancies. The Committee, therefore, strongly view that amending the Recruitment Rules on 24th March, 2008 for PGT posts just before conducting regular recruitment in June, 2008 was done with ulterior motivation. Otherwise, where was the need to amend the Recruitment Rules when it is said that in the year 2010, the post of PGT (Economics) was advertised due to non-availability of eligible departmental candidate and the post of PGT (Computer Science) was not advertised inspite of five vacancies. It is truly an example of harassment and depriving the legitimate rights of 2 SC ex-teachers who worked many years on contract basis in Navyug Schools.

19. Further, the Committee feel that any amendment in Recruitment Rules should not be done with retrospective effect. If it is done then it means that the institution wants to favour or dis-favour any particular candidates. NSES made amendment in its RRs for PGT in 2008 but from retrospective effect and implemented the rule to all the backlog/shortfall vacancies resulting in deprivation of Shri Rahul Kumar Sultana and Shri Hakam Singh from their legitimate right on being selected under SRDs.

20. The Committee note that NSES discontinued the services of Shri Rahul Kumar Sultana and Shri Hakam Singh (both eligible for PGT post) as per the amendment in RRs to fill up the PGT posts through 100% department promotions. On the other hand NSES hired the services of M/s NIIT to teach senior secondary classes through their PGT ignoring the same criteria.

21. The Committee observe that NSES never consulted or informed DoP&T or Ministry of Home Affairs about their recruitment drives whether it is regular or special drive basis. The Committee also note that the Ministry of Home Affairs never took interest in supervising the SRDs conducted by NSES at any stage as required under

the DoP&T Orders. Had the Ministry monitored the SRDs and other matters related to SCs/STs in NSES, the lapse done on part of NSES to conduct SRDs on contract basis would have been prevented.

22. According to post evidence reply, in 2008, a total of 114 candidates were selected for the post of TGT, Primary Teacher (Academics) and Primary Teachers (Activity) out of which 59 (SC-19) were working on contract basis and 58 (SC-18) candidates had applied against the advertisement and circular issued by NSES. A total of 36 including 9 SC contractual teachers got selected on regular basis.

23 The Committee note that against the total 55 vacancies as advertised in the newspaper on 17th June, 2008, 131 candidates were selected in three final lists declared on 26th May, 2009, 31st July, 2009 and 28th October, 2009 without any further notification. The petitioners have alleged that NSES selected more candidates than what were published in the advertisement dated 17th June, 2008 in connection with regular recruitment conducted by NSES. In case of TGT, the post published was 24 but NSES had provided the vacancies published and filled at 33. The petitioners have alleged that NSES has selected 33 persons as TGT. In case of Primary Teachers (Humanities & Science), the post published was 9+9= 18, whereas NSES has mentioned the vacancies published and filled as 36+23=59. The petitioners have alleged that NSES selected 37+28=65 persons as Primary Teachers (Humanities and Science). In case of Primary Teachers (Activity), the post published was 13 while the NSES has mentioned the vacancies published and filled as 22. The contention of the petitioners that the excess vacancies filled in case of three categories of posts are backlog vacancies seem to be true as in their reply NSES has admitted that it ensured filling up not only most of the backlog reserved vacancies but also other pending vacancies in the year 2008-09. By mixing all current and backlog vacancies together and by not mentioning the exact no. of SC/ST vacancies both backlog and

current in the advertisement, the NSES seems to be totally at a loss to conceal their misdeeds by confusing the Committee. NSES has not only clubbed the backlog vacancies of 2005-2007 of SC/ST with General quota for recruitment on 17th June, 2008 but also ceiling of 50% on backlog vacancies were imposed and recruited no SC/ST candidates. This is a clear violation of article 16 (4 B) and 81st amendment of Constitution. Not only that excess candidates were selected than the published vacant posts, it has also been alleged that OBC posts were never advertised for filling up of TGT posts. Yet candidates from OBC quota were selected. In reply, NSES has stated that there is a provision for reservation of OBC category in direct recruitment. The Committee find the reply very absurd. The other two serious allegations are also made against Chairman, NDMC that those excess vacancies were supposed to be regularized but deliberately declined by him and that several vacancies were filled by outsiders etc. by bribery. These allegations, however, have not been refuted by NSES and needs to be thoroughly examined by an independent authority.

24. In reply to holding of interviews of SC/ST/OBC on the same day and same time with the general category, candidates, it has been stated that Director (Liaison), NDMC was an integral part of the constituted Selection Board as a representative of SC/ST. The Committee note with deep regret that NSES violated DoP&T OM No.1/1/70-Estt.(SCT) dated 31st July, 1970 (Para 2(e)) with *mala fide* intention to reject more and more SC candidates.

25. The Committee also note that no vacancy for OBC category was published in the Advertisement dated 17th June, 2008 under TGT cadre. The Committee fail to understand how did NSES then receive the applications from OBC candidates and finally selected 6 candidates under the OBC category.

26. The Committee also note that criteria of minimum qualifying marks were fixed on 29th June, 2009 only after declaring the first final list of selected candidates on 26th May, 2009. On seeing the copy of the file noting supplied by the petitioners obtained by them under RTI Act, it *prima facie* appears that the file noting was tampered with the intention to cover up the mistake done on the part of NSES. The Committee take serious note that NSES has no hesitation in presenting false information to them.

27. From the same copy of file noting it was observed that the minimum qualifying marks of 45% was fixed for General category and 30% marks were fixed for all SC/ST and OBC categories by NSES whereas reservation of minimum 30% marks cannot be given to OBC categories who are to be considered at par with General category. With the result, several SC/ST candidates were deprived of their chance. After conducting the written examination of 100 marks each for both the posts of TGT and PRT on 21st December, 2008, the 100 marks were scaled down to 60% for written examination, 30% for interview, 5% each for higher qualification and higher experience than prescribed in RRs. Ratio of 1:5 for calling candidates for interview against the posts were arbitrarily not maintained and with the result, several candidates who had qualified the written examination were not called for interview as per their decided ratio of 1:5.

28. The Committee are perturbed to note how NSES had offered a Primary Teacher post to Ms. Vinita Tyagi - a general candidate against SC post. Through such an example, it is not difficult to conclude how the NSES is working.

29. The most disturbing point that was more telling was in giving high marks in interview to those alleged to be the favourites of the NSES whereas SC ex-teachers who had been working for 2 to 7 years were given less marks or no marks at all. In regard to marks allotted to higher qualifications too, the Committee note with distress that marks were not given according to higher qualifications as it is evident from the

statements of marks obtained by petitioners under RTI Act. The reply of NSES that marks for higher qualification/experience were allotted as per fixed criteria and applied uniformly is absolutely untrue in view of information given in the statement.

Some of the glaring irregularities committed by NSES are as under :-

- (i) The Committee note that two candidates (one ST and one General category) Shri Digamber Singh and Ms. Swati Sahni who were selected for TGT (Computer Science) post had possessed B.I.S (Hons) degree as shown in the merit lists. As per information possessed by the petitioners obtained under RTI ACT, the Vivekananda Institute of Professional Studies which awarded this degree, was never recognised and affiliated by AICTE (All India Council for Technical Education) and also the same nomenclature degree was never permitted by U.G.C. The GGSIP University of Delhi also cleared in its RTI reply that B.I.S. (Hons) was never equivalent to B.C.A. which is the prescribed qualification for TGT (Computer Science) post. Shri Digamber Singh was also given 5 marks for 6 months experience.
- (ii) The Committee also note that one candidate Shri Naresh Kumar possessed only B.Tech (Computer Eng.) degree which was never asked in the RRs for his post. The Committee also note that despite not having any other degree possessed by Shri Naresh Kumar, he had been given 5 marks against higher degree than the prescribed qualification. Ms. Rajni Meena, an selected ST candidate for PRT (Humanities) was given full 5 marks for 'Nil' experience.
- (iii) The Committee also note that Ms. Mamata, SC candidate who was selected for TGT (Computer Science) had not submitted her original caste certificate. Even then she was selected. She was further given full 5 marks for higher qualification just for her one year diploma in Computer science whereas Shri Raj Kumar having same qualifications was given nil marks.
- (iv) The Committee note that Shri Rahul Kumar Sultana one of petitioners, who had been working for more than 6 years on contract basis in NSES as a PGT (Computer Science) was not selected by not giving marks at all for experience and very less marks in the interview. The Committee think that if extra marks for experience and proper marks in interview were allotted to Shri Sultana, he would definitely have topped the merit lists amongst all categories candidates. Similarly, Ms. Geeta, TGT (Science), Ms. Manju Pereva, TGT (English), Ms. Pratibha, TGT (Work Experience), Shri Anil Kumar, TGT (PET), Ms. Saroj, TGT (ART), Ms. Saroj, PRT (Science), Ms. Hemlata, PRT (Humanities) and Ms. Kunta Anand, PRT(PET) other petitioners, were also given very less marks in interview or no marks allotted for experience.

30. It is also noted that without publishing post reserved for OBC, Shri Praveen Kumar an OBC candidate was selected as TGT (PE) in recruitment 2008, and accommodated against SC candidates who were not given prescribed extra marks for higher qualification and experience. Similarly, Shri Anjani Prasad, Ms. Kavita, Ms. Archana Tanwar, TGT (ART) and Ms. Rekha Kumari, TGT (Science) were also selected as OBC candidates in spite of fact that OBC vacancies were not published. Whereas Ms. Saroj, TGT (Art) an SC was deprived of selection inspite of being in merit.

31. According to NSES website, there are altogether 11 Navyug Schools in NDMC area. These are Navyug Sr. Sec. School, Sarojini Nagar; Navyug Sr. Sec. School, Peshwa Road; Navyug Sr. Sec. School, Laxmibai Nagar; Navyug Sr. Sec. School, Moti Bagh (NW); Navyug Sr. Sec. School, Lodi Road; Navyug Sr. Sec. School, Vinay Marg; Navyug Primary School, Tilak Nagar; Navyug Primary School, Mandir Marg; Navyug Primary School, Pataudi House; Navyug School, Jor Bagh; Navyug School, Darbhanga House. According to information submitted to the Committee at para 112, category-wise sanctioned strength of PGT, TGT, Primary Teachers (Academic) and Primary Teachers (Activity) are 72, 135, 83 and 25 respectively. The Committee feel that the staff strength of PGT, TGT and PRT posts are not sufficient for meeting the requirement of these schools. The Committee also note that despite having backlog sanctioned regular vacancies TGT (Hindi) and post of TGT (Social Studies), no vacancies of these posts were published by NSES in the Advertisement whereas particularly 2 posts of TGT (Hindi) and 3 posts of TGT (Social Science) were created due to up-gradation of Navyug School Mandir Marg.

This deprived Ms. Hemlata for applying for the post of TGT (Hindi). Also, NSES has not mentioned category- wise break up of posts i.e. to which category the post goes. Because of this if a candidate wants to apply in TGT (Computer Science)

post under SC category then he doesn't know whether that vacancy is reserved or unreserved. Therefore, he will feel cheated. The Committee also fail to understand when NSES say that subject-wise reservation is being given then under what method allotted reservation for different posts are allotted. If NSES are treating TGT and PRT as post then why they do not publish single merit list each for TGT and PRT posts.

32. Regarding Liaison Officer and Reservation Cell in NSES, The Committee note that no separate Liaison Officer and Reservation Cell for SCs/STs were virtually functioning in NSES. The Director (Liaison) of NDMC was assigned the work of Liaison Officer of NSES. He was also handing the additional charge of Director (Vigilance), NDMC. The Committee are also surprised to note that NSES in their reply admitted that adequate training was imparted to all the officers dealing with SCs/STs matters even then the grave mistakes were taken place in handling SRDs in 2005-2007 and regular recruitment in 2008.

33. According to vacancy position as per the roster as on 31st December, 2009, there are vacancies for SCs and STs in PGT and TGT posts. These vacancies are reported to be against promotion.

34. NDMC did not furnish the information in regard to progress report of filling up of backlog sanctioned vacancies from the year 2004 to 2010. NDMC were also asked to furnish backlog of all vacancies resumed for SCs as in 2004 onwards. They furnished the details of unfilled vacancies for SCs/STs. The Committee note that from 2004 onwards, there are continuous SC and ST unfilled vacancies in all cadres of PGT, TGT, Primary Teachers (Academic) and Primary Teachers (Activities). Instead of filling up those by contractual appointment, NSES should have had direct recruitment for all those posts as departmental posts can be temporarily diverted to direct recruitment.

Reply of the Government

The Ministry of Home Affairs vide their OM No. 16015/1/2011-Delhi-II dated 20.7.2011 had furnished their Action Taken Replies which did not offer their comments on the observations made by the Committee.

In pursuance of this Secretariat request to furnish their replies on all the observations and recommendations, Ministry of Home Affairs vide their OM No. 16015/1/2011-Delhi-II dated 2nd December, 2011, inter-alia stated that as recommended by the Committee, the Ministry had directed the Government of NCT of Delhi to get the matter inquired into in view of discrepancies and irregularities as pointed out by the Committee and that Shri R. Chandramohan, IAS, Principal Secretary – cum – Commissioner (Transport), Government of NCT of Delhi, a senior officer, empanelled by the Government of India for Secretary level posts, had been designated as the inquiring authority for the purpose. It was requested that the Ministry may be allowed to submit their further comments/replies in the matter till the outcome of the inquiry is known.

The Ministry of Home Affairs vide OM No. 16015/1/2011-Delhi dated 24.1.2012 again stated that to wait until the outcome of the Inquiry Authority by 31st March, 2012 before taking any further action in the matter.

The Ministry of Home Affairs received the Report of the Inquiry Authority on 2 April, 2012 and informed the Committee of the conclusions arrived (Para 1.4 of Chapter I).

Comments of the Committee

The Committee are pained to note that the Ministry had furnished their incomplete Action Taken Replies in the first instance without saying any word on observation part of their report. The Committee also note that the Ministry just reproduced the reply submitted by the NSES to the Ministry without

offering their own comments. The Ministry were silent even on the observations/ recommendations related to them and also did not consult the DoP&T on certain points before furnishing their replies.

Later when pursued vigorously, the Committee were informed that the Ministry had directed the Government of NCT of Delhi to get discrepancies and irregularities pointed out by the Committee inquired into and that Shri R. Chandramohan IAS (AGMU:1978), Principal Secretary – cum – Commissioner (Transport), Government of NCT of Delhi, a senior officer, empanelled by the Government of India for Secretary level posts, had been designated as the Inquiring Authority for the purpose.

The committee note that the Ministry of Home Affairs received the Report of the Inquiry Authority on 2 April, 2012 and after examining the Report and other relevant documents arrived at the following conclusions:-

1. The Reservation Roasters needs to be recast by NSES and reservation points noted post wise and subject wise as the vacancy arises;
2. The backlog in unfilled reserved vacancies in a Recruitment Year should be carried over to the next Recruitment year as per rules and the same cannot be cancelled/erased by amending the Recruitment Rules prospectively;
3. The contractual appointees of 2005 against backlog reserved vacancies only should be regularized as the Selection Process was elaborate and as per the approved RR's and established practice followed while making regular appointment.
4. The backlog in reserved vacancies in respect of PGT's against the Direct Recruitment Quota should be readvertised subjectwise as per the relevant RR's and filled up. The unfilled reserved vacancies against Departmental Quota should also be got filled up by Direct Recruitment;
5. In respect of regularization of ad-hoc/contract employees the policy of BOG should be uniform without any distinct ion between Non-Teaching and Teaching staff;

6. In the recruitment made in 2008, the selection and appointment of candidates should be limited to the number of vacancies notified in the press and the appointment of Non SC/ST candidates against reserved vacancies for SC and STs should be got rectified.

The Committee were also apprised by the Ministry of Home Affairs, after consultation with the NDMC that the following action was taken:-

1. The recruitment drive in 2008 is being cancelled in view of the glaring irregularities in the process;
2. The contract/ad hoc teachers cannot be regularized since the advertisement was for contractual appointment;
3. The recommendations of the Inquiry Authority on policy of reservation followed by NSES, have referred to DoPT for their views.

The Committee also note that during evidence, before them on 26 June, 2012 the Secretary Ministry of Home Affairs, Government of India had stated that in respect of appointment of 10 SC ex-teachers, they would give directions which are legal and that they cannot give directions which are not supported by law. The Secretary, Ministry of Home Affairs, Government of India further stated that Committee had full power to give recommendations and directions to the Government. The Government will take decision after consideration and give directions to NDMC which are legal only.

The Committee still feel that the services of 10 SC ex-teachers were terminated for no fault of theirs and that they are the sufferers. The Committee therefore, reiterate their recommendation that these victimized teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be restored. The Committee also reiterate that the Government should take positive steps to appoint these aggrieved 10 SC ex-teachers as early as possible, as now they are over aged and thus not eligible for applying other such jobs in the Government institutions.

The Committee also strongly recommend to the Government that the 10 SC ex-teachers of the Navyug Schools may be regularized against the backlog vacancies, if any and in case sufficient number of backlog vacancies were not there to accommodate all the ex-teachers, the remaining teachers may be regularized against future vacancies, as and when they arise. Some members of the Committee also desired *inter alia*, that

- (i) action may be initiated under SCs/STs (Prevention of Atrocities) Act, 1989 against the erring officials responsible for irregularities in the recruitment process of 2005 and 2007 in the Navyug Schools; and
- (ii) reasons may be furnished for regularization of other categories of persons in the NDMC, etc.

The Committee, however, appreciated that the Home Secretary had categorically accepted that gross irregularities were committed during the 2008 recruitment drive by the NSES on regular basis. The Committee strongly feel that had these irregularities/discrepancies been not committed on part of NSES, whether delebrately or otherwise, all the aggrieved teachers would have been secured jobs on the basis of their performance which was far better than many of the others as pointed out in observations part of the 13th Report of the Committee.

The Committee noticed from the Action Taken Replies furnished by the Ministry of Home Affairs that the Ministry did not offer their comments on the observations made by the Committee. Out of 34 observations, the Ministry tried to clarify only observations mentioned at Paras 4, 8 and 13 in response to reply to Recommendation No. 1. Further, the Ministry just reproduced the reply submitted by the NSES without mentioning a single comment on their own part. In fact, the Ministry/NSES did not offer anything new in their comments

and tried to give the same argument that the 10 SC ex-teachers were hired on contractual basis and thus their services could not be regularized.

B. RECOMMENDATIONS

Recommendation (Sl. No. 1, Part II-B)

Having noted the humiliation and frustration faced by the highly qualified 10 SC ex-teachers in the hands of NSES authorities for no fault of theirs, the Committee strongly feel that all the 10 SC ex-teachers appointed by NSES in 2005 and 2007 on contract basis deceptively under 'Special Recruitment Drives' need to be given jobs on regular basis under SRD. Those PGT/TGT/PRT were in fact appointed against promotional and direct recruitment positions i.e. regular vacancies but thrown out of jobs after serving for 2 to 6 years, on the grounds that their appointment were on contractual basis. During the regular recruitment conducted in 2008, the Committee note that, they appeared and passed the written examination but failed in interview due to various reasons as mentioned in the observations. The Committee strongly recommend that these victimized teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be maintained forthwith. The Committee also recommend that for this purpose, Ministry of Home Affairs/NSES in consultation with DoP&T find out a suitable way out to resolve the issue of providing regular jobs to these teachers. The Committee feel that, if necessary, additional posts may be created to accommodate these 10 SC teachers who have been suffering for the long period due to bias and unjustifiable attitude of NSES.

Reply of the Government

The recommendation made by the Committee was referred to the New Delhi Municipal Council for its views. In this regard, the Council has stated as under:

- (i) These 10 ex-contractual SC teachers had applied against the advertisements during the years 2005 to 2007 which clearly indicated that the posts were to be filled up on contractual basis. Their

appointment letters clearly indicated that their appointment was liable to be terminated at any time.

- (ii) They did not work for unduly long period on contractual basis. Even as per their own claim, only one applicant had worked for a period of 7 years. The period claimed by them in years was factually only academic sessions and not years. In the case of remaining 9 applicants, the period of contractual appointment ranged from 2 to 4 academic sessions. Even this was not a continuous appointment, but restricted to one academic session only. They were engaged afresh, if the post was not filled up on regular basis during meanwhile.
- (iii) The engagement of these 10 SC ex-contractual teachers was not against the Special Recruitment Drive for 'backlog' reserved vacancies but was contractual appointment against the extant current vacancies till the posts could be filled up on regular basis. The Committee has accepted in Para 8 of the recommendations (read observation No. 8 instead), the contention of DoP&T that the unfulfilled vacancies could not be treated as 'backlog' vacancies. Therefore, taking these 10 ex-contractual teachers back on duty treating them as appointees of Special Recruitment Drive for 'backlog' reserved vacancies will not be possible.
- (iv) The Committee has agreed in para 4 (read observation No. 4 instead) of the recommendations with the stand of the Government that the regular appointments are made strictly in conformity with the regulations envisage holding of written subject test, interview etc., which is much more comprehensive and rigorous procedure than that of contractual appointment which is restricted to walk in interview only. The contracted teachers who failed to qualify in the regular selection have no ground for seeking regularization.
- (v) Further, the recommendation has widespread and serious implications. In case it is accepted, the 36 ex-contractual teachers who have been

qualified on the basis of their performance in the 2008 recruitment process may seek regularization from back date, i.e. the date of their initial contractual appointment. There may be cases of the reserved candidates who had worked on contractual basis during 2005-2007, but left the same for any reason whatsoever may now come forward and seek regularization from back date (though not working at the time of regular appointment during 2008). The Committee has accepted Government's contention that the contractual appointment was not against the SRD for backlog reserved vacancies, so taking the analogy of the Committee, even general candidates taken on contractual basis may seek regularization from date of their initial contractual appointment, claiming that they were taken against regular posts. Accepting the decision of the Committee would lead to opening of a Pandora box and lead to an uncontrollable string of representations, claims, court cases and will unsettle the settled issue. The Committee's recommendations, if accepted, will lead to similar demand, for retrospective regularization from all such contractual employees in various departments.

- (vi) It is also submitted that after the recruitment process of 2008, reserved category vacancies have been filled up either by selection of ex-contractual teachers or reserved candidates from open market. Taking the 10 SC ex contractual teachers, who failed to make the grade in the selection process would lead to same demand being made by other similarly placed persons, which would not be able to be handled by NSES, which has a small cadre strength. In fact taking these 10 SC ex-contractual teachers back would require termination of services of SC teachers selected on their own merit in 2008 during regular recruitment drive.
- (vii) The Committee has differently interpreted the judgement of the Constitutional Bench of the Supreme Court in the case of Uma Devi to be applicable only for general candidates. The judgement is law of the land and is universally applicable. In case the Society has taken some

decision contrary to the judgement, the same is liable to be reviewed instead of committing the same mistake further by flouting the said judgement, (Ref. Observation No. 13).

- (viii) The Committee has referred to a recent ruling of the Supreme Court in para 13 of the recommendations (read Observation No. 13 instead), where the Apex Court has deprecated Union of India engaging casual workers for long without making them permanent. In this connection, it is submitted that it was a case where workers were consistently engaged for 30-40 years. The Apex Court still did not direct for their regularization, but advised UOI to consider enacting an appropriate regulation/scheme for their absorption and regularization. But in the present case, contractual teachers had worked for a short period of academic sessions with breaks.
- (ix) The implementation of the recommendation of the Committee would lead to wider consequences and impact contractual workers engaged in various public bodies. It is not a case where some discrimination has been made against SC/ST candidates. The Committee has noted that out of 19 SC candidates, working on contractual basis, 18 applied for the posts and 9 of them were selected. As regards, ST, all the 4 candidates were found up to the mark and were offered regular appointment. The other vacant posts of SC/STs were filled by the reserved candidates from open market and no reserved post at any stage was diverted to general category.
- (x) It is also submitted that any such decision of their regularization would have wide spread and cascading impact on different organization where huge number of contractual manpower is engaged. Other than being contrary to various judicial pronouncements on the subject, it may be precedential in nature, detrimental to the organizational aspiration of appointing the manpower on the basis of relative performance of applicants and only the better ones getting selected. The issue of regularization of their contractual appointment was agitated by the

petitioners before the Principal Bench of the CAT. On dismissal of their application by CAT, they have filed petition before the High Court of Delhi. The matter is presently pending before the Court.

- (xi) Similar issue was also raised by contractual teachers appointed by NDMC in its schools. Some of them also approached court of law for regularization of their services. In one such specified case WP(c) No.6335 and others of 2004, the Hon'ble High Court passed order on February 11, 2005. The operative part of the judgement is reproduced below :

“There could be innumerable situations where vacancies occur which require the engagement of persons on a temporary basis. To cite one example there may be a requirement for 100 teachers against which a corresponding number of persons have been appointed. Some of these persons may resign or may meet with an untimely death. If these vacancies are not filled up it would clearly strain the functioning of the School. What should the employer do in such cases? Assuming that recruitment must be done strictly in conformity with the Regulations which envisage the holding of a written examinations and interview etc. some persons may be employed on a contract which covers a period within which the employer reasonably expects the vacancies to be filled up in consonance with the Regulations. If these contractual employees are entitled to be regularized, the salutary Regulations can be easily circumvented. This would run contrary to the expectations of law. Alternatively an employer would rather suffer a set back to the efficient functioning of the Organization rather than employ persons on a contractual basis.”

This judgement was also upheld by the Hon'ble Supreme Court of India.

- (xii) Therefore, it is clearly evident that the appointments on contract basis were made in the given situation, in the best interest of the students. If these vacancies had not been filled up, it would have clearly strained the functioning of the NSES schools. Therefore, it will not be possible for NSES to regularize the services of these 10 SC ex-contractual teachers.

In view of the position explained by NDMC, this Ministry is not in a position to accept the recommendation of the Committee.

[Ministry of Home Affairs OM No.16015/1/2011-Delhi II dated 20 July, 2011]

As regard regularization/re-appointment on contract basis, etc. of 10 SC ex-teachers, the Ministry of Home Affairs in their post-evidence reply vide their OM No.16015/1/2011-Delhi II dated 24 January, 2012, have stated that the direction of the Committee has been carefully considered by the Ministry in consultation with the NDMC/NSES and cited the following implications in this regard:-

- (i) This will perpetuate contractual appointments without getting culminated into regular appointments.
- (ii) If any contractual appointment is offered to the SC candidates, then similar offers will also have to be made to other ex-contractual teachers belonging to OBC and General category who were also not selected in the regular recruitment process. The other ex-contractual teachers who had worked earlier at different points of time may also claim for contractual appointment on the same analogy.
- (iii) 9 ex-contractual teachers, which include 5 SC candidates have filed Court cases on the same issue, which are pending before the Hon'ble High Court and the matter is sub-judice.
- (iv) The appointment of the ex-contract teachers in NSES can have snow ball effect by having similar demands from the various categories of ex-contractual employees engaged in various departments of NDMC.

Comments of the Committee

The Committee are surprised to note that the Ministry of Home Affairs haven't changed their stand to honour the desire of a Parliamentary Committee inspite of categorical acceptance by the Secretary of the Ministry of Home Affairs, Government of India of gross discrepancies in recruitment in the NSES. The Government have expressed their inability to give directions to the NDMC for giving even contractual employment to the petitioners till the outcome of Inquiry Authority report. The Ministry of Home Affairs received the Report of the Inquiry Authority on 2 April, 2012 and informed the Committee about the conclusions arrived [Para 1.4 of Chapter I].

The Committee, after taking into consideration the views of the Ministry of Home Affairs on the Inquiry Committee Report and other relevant facts, however reiterate its recommendation that these victimized teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be restored. The Committee reiterate that the Ministry of Home Affairs/NSES in consultation with DoP&T, should find out a suitable way out to resolve the issue of providing regular jobs to these teachers. The Committee also reiterate its recommendation that, if necessary, additional posts may be created to accommodate these 10 SC teachers who have been suffering for a long period due to bias and unjustifiable attitude of NSES. The Committee desire that the Government should consider the matter on humanitarian ground and take positive steps to appoint these aggrieved 10 SC ex-teachers as early as possible, as now they are over aged and thus not eligible for applying for other such jobs in Government institutions.

The Committee also strongly recommend to the Government that the 10 SC ex-teachers of the Navyug Schools may be regularized against the backlog vacancies, if any and in case sufficient number of backlog vacancies were not there to accommodate all the ex-teachers, the remaining teachers may be regularized against future vacancies, as and when they arise. Some members of the Committee also desired *inter alia*, that:-

- (i) action may be initiated under the SCs and STs (Prevention of Atrocities) Act, 1989 against the erring officials responsible for irregularities in the recruitment process of 2005 and 2007 in the Navyug Schools; and**
- (ii) reasons for regularization of other categories of persons in the NDMC, etc.**

Recommendation (Sl. No.2, Part II-B)

Having noted that the Board of Governors (BoG) of NSES has supreme power in the Society, the Committee recommend that at least one of the members of the BOG should be nominated from the SC/ST category so that he can be part of the policy making body and can ensure that policy decisions taken are not against the interest of SC/ST employees. The Committee also recommend that BOG of NSES should review all policy matters which they made against the interest of SC/ST employees including PGT/TGT/PRT.

Reply of the Government

The recommendation of the Committee has been accepted. One of the members of the Board of Governors (BOG) of NSES will be from SC/ST category. All the issues, which may have any adverse impact on interests of SC/ST employees, will be placed before the next meeting of the BOG, after its re-constitution.

Comments of the Committee

The Committee appreciate that the recommendation has been accepted and one of the members of the Board of Governors (BOG) of NSES will be from SC/ST category. All the issues, which may have an impact on interests of SC/ST employees, should be placed before the next meeting of the BOG after its re-constitution. The Committee would like to be informed about the decision taken at the next meeting of BOG, after its reconstitution.

Recommendation (Sl.No.3, Part II-B)

The Committee recommend that an exclusive Reservation Cell which does not exist at present, should be created in NSES for looking after the affairs related to welfare of SCs and STs in NSES. The Committee also recommend that instead of taking assistance of Director (Liaison), NDMC in the matters of SCs/STs a full fledged Liaison Officer of not below the rank of Deputy Secretary well versed in reservation

policy for SCs/STs should be appointed in NSES who will be the incharge of Reservation Cell. The Committee feel that comprehensive training should also be imparted to staff appointed in Reservations Cell and the officers in charge of SCs/STs matters so that they all will be equipped with the every knowledge/Government Orders related to welfare of SCs/STs.

Reply of the Government

It is submitted that NSES is a small organization having less than 500 teaching and non-teaching employees only. At the Headquarter level, only one officer is available. i.e. Deputy Director (NSES) and one Administrative Officer is available for administration and coordination purposes. In fact, Director (Education), NDMC is holding the additional charge of the post of Director (NSES). So a full fledged Liaison Officer not below the rank of Deputy Secretary heading a separate Reservation Cell may not be practical. A comprehensive training schedule for officers/staff dealing with the reservation matters will, however, be devised and implemented.

Comments of the Committee

The Committee note that there are about 500 teaching and non-teaching employees in NSES. The Committee also note that the Director (Education), NDMC is holding an additional charge of the Director (NSES) and also performing the duty of Liaison Officer in NSES for looking after the affairs related to welfare of SCs and STs.

The Committee are perturbed by the casual reply of the Government that a full fledged Liaison Officer of a rank not below that of Deputy Secretary in NSES who will be the incharge of the Reservation Cell, is not practicable. The Committee, are of the view that atleast a small Reservation Cell should be set up exclusively as an extension of Main Reservation Cell of NDMC to over see

the affairs related to SCs and STs in NSES, exclusively. However, the Committee insist that a Liaison Officer of a rank of not below Deputy Secretary should be incharge of the Reservation Cell without any other responsibility in NSES. The L.O and other staff of Reservation Cell should be conversant with all Government Orders related to welfare of Scheduled Castes and Scheduled Tribes. The Committee appreciate that a comprehensive training schedule for officer/staff dealing with the reservation matters will be devised and implemented. The Committee also desire to be appraised of the Programme chalked out by NDMC/NSES to impart training to LO/staff of Reservation Cell.

Recommendation (SI.No.4, Part II-B)

The Committee are confused over the maintaining of rosters on post based i.e. treating PGT,TGT, PRT, etc. as a post and not on subject-wise post based rosters as is done by other educational institution. In the absence of this, it is very difficult to decide as to which posts will go to which category. The Committee, therefore, recommend that the rosters should be maintained on subject-wise post based system so that both fresh candidates and teachers/staff already in NSES could easily find out the position about the category of posts.

Reply of the Government

It is submitted that NSES is a small organization with only 7 Sr. Secondary and 4 Primary Navyug Schools. Hence, subject wise vacancies are limited and their further category wise bifurcation will hamper the interest of reserved candidates. Further, it is submitted that the DoP&T's instructions provide for grouping of posts for reservation in direct recruitment in case of isolated posts. It is felt that maintaining reservation cadre wise would be more beneficial for reserved candidates. The matter will, however, be examined in consultation with DoP&T and representation of SC/ST employees will be included in framing of policy matters related to reserve categories.

Comments of the Committee

The Committee note that the DoP&T's instructions provide for grouping of posts for reservation in direct recruitment in case of isolated posts. The Committee note that NSES is a small organisation and subject-wise vacancies are limited and their further category-wise bifurcation would hamper the interest of reserved candidates. The Committee would like to agree with the Government that maintaining reservation cadre-wise would be more beneficial for reserved candidates. The Committee appreciate that the Government has agreed that the matter will be examined in consultation with DoPT and the representation of SC/ST employees will be included in framing policy matters related to reserve categories. The Committee desire to be appraised of the outcome of the exercise undertaken by the Government in consultation with DOP&T in this regard.

Recommendation (SI no. 5, Part II-B)

The Committee recommend that in future NSES should make all their recruitments by following proper procedure. It should be careful in inviting applications through advertisement so that the vacancies and subject-wise posts are clearly mentioned. NSES should also prepare their plan for recruitment in advance in regard to direct recruitment and departmental promotion in Navyug Schools so that need of recruiting teachers on contract basis may be restricted to minimum and if need arises, same teachers appointed on contractual basis may not be reappointed to avoid the unpleasant situation.

Reply of the Government

The recommendation has been noted for compliance.

Comments of the Committee

The Committee are surprised to know during the course of evidence of the Ministry/NDMC that despite acceptance of their recommendation, the NDMC/NSES has advertised posts for guest teachers instead of direct/promotional recruitment. However, the Committee express their desire that the posts of guest teachers may first be given to the aggrieved teachers by renewal of their contracts against the vacant posts meant for filling up by the guest teachers and regularise them subsequently on the arising of clear vacancies.

Recommendation (Sl. No.6, Para B)

The Committee desire that the Ministry of Home Affairs – the Nodal Ministry through their own Liaison officer incharge of SCs/STs matters or some independent agency, should undertake an extensive verification drive to check the present recruitment procedure in vogue in NSES and report to the Committee the discrepancies noticed by them during verification of all rosters, cases of regularization of contract/adhoc teachers since the inception of NSES as also the irregularities in recruitment drive 2008.

Reply of the Government

Sub-section (17) of Section 2 of the New Delhi Municipal Council Act, 1994 defines “Government” as the Government of the National Capital Territory of Delhi. The Government of NCT of Delhi has been, therefore, suitably advised to undertake verification of all rosters, cases of regularization of contract/ad-hoc teachers since the inception of NSES as also the alleged irregularities in recruitment drive 2008, as recommended by the Committee.

Comments of the Committee

The Committee note that at no point of time during evidence or in correspondence, the Ministry of Home Affairs or the NDMC/NSES had mentioned about any role of the Delhi Government and the provision contained in sub-section (17) of Section 2 of the NDMC Act, 1994 which defines “Government” as the Government of GNCTD. Now, the Committee have been informed that the GNCTD will undertake verification of all rosters, cases of regularization of contract/ad-hoc teachers since inception of NSES.

The Committee are perturbed to note that the Government treat the Parliamentary Committee in such a callous way. Had this fact been brought to the notice of the Committee earlier, the Committee could have extended their area of evidence upto GNCTD. However, the Committee desire that being the nodal Ministry, the Ministry of Home Affairs may oversee the verification process being undertaken by the GNCTD and pursue it for early completion of the process.

The Committee would also like to be intimated about the final outcome of the said exercise to undertake an extensive verification drive through GNCTD to check present recruitment procedure in vogue in NSES, the discrepancies noticed during verification of all rosters, cases of regularization of contract/ad-hoc teachers since the inception of NSES and the irregularity in recruitment drive 2008 alongwith the corrective action taken by the Government in each case.

Recommendation (Sl. No. 7, Part II-B)

The Committee also recommend that an officer not below the rank of Joint Secretary should be designated in the Ministry to regulate/supervise the affairs

related to SCs/STs in NSES. The Committee feel that the Ministry cannot abdicate their responsibility by just mentioning that NSES is a Society and independent body.

Reply of the Government

It is submitted that New Delhi Municipal Council is a municipal body charged with municipal government of New Delhi. Navyug Schools are controlled by a Society i.e. Navyug School Educational Society (NSES), registered under the Societies Registration Act,1860 and fully financed by the NDMC. The Society has been set up to impart quality education to the children of the NDMC area. The New Delhi Municipal Council derives its powers from Part IX A of the Constitution, as has been extended to the New Delhi area, and the New Delhi Municipal Council Act, 1994. Under the New Delhi Municipal Council Act,1994, "Government" has been defined as the Government of National Capital Territory of Delhi. In view of the above, the Government of NCT of Delhi has been advised to take responsibility for regulation and supervision of the affairs relating to Scheduled Castes and Scheduled Tribes in NDMC, including NSES.

Comments of the Committee

The Committee note that the Government of NCT of Delhi has been advised to take responsibility for reservation and supervision of the affairs relating to SC & ST in NDMC, including NSES under the NDMC Act, 1994. However, the Committee strongly feel that being the nodal Ministry, the Ministry of Home Affairs may oversee the verification process being undertaken by the GNCTD and ensure early completion of the process. The Committee re-iterate that the Ministry cannot abdicate their responsibility citing provisions of NDMC Act, 1994 under which "Govt" means GNCTD.

Recommendation (Sl.no.8, Part II-B)

The Committee strongly recommend that appropriate action should be taken against the Liaison Officers who failed in their duties in taking action contrary to relevant rules/orders related to SCs/STs or their improper or bias implementation while conducting SRDs, regular drives and regularization of vacancies.

Reply of the Government

The matter was taken up with the New Delhi Municipal Council, which has clarified that the actions of the officers were on account of administrative exigencies and keeping the best academic interests of the students in mind. It has also been mentioned that NSES as an organization respects and protects the right of all, specially those belonging to reserved categories. It is submitted that after the regular recruitment process of 2008, the short fall in reservation has been filled up by respective reserved category candidates on regular basis.

Comments of the Committee

The Committee do not accept the argument of the Government that the actions of the officers were on account of administrative exigencies and keeping the best academic interests of the students in mind. The Committee do not buy the claim of the Government that the NSES took all actions keeping in view the best academic interests of the students and administrative exigencies. The Committee note that NSES adopted a policy of recruiting teachers on contract or ad-hoc basis since its inception merely on the basis of applications or to some extent by conducting interviews instead of adopting a proper recruitment procedure. The claim of the Government that the NSES is an organization which respects and protects the right of all especially those belonging to reserved categories, doesn't match its actions on the ground as there are a number of cases of irregularity in matters of recruitment of SC/ST,

as already mentioned by the Committee in the observations part of their 13th Report.

The Committee also recall the statement of the Secretary, Ministry of Home Affairs, during evidence in which he had categorically accepted that gross irregularities were committed during the 2008 recruitment drive undertaken by the NSES on regular basis.

The Committee, therefore, reiterate their earlier recommendation that appropriate action should be taken against the Liaison Officers who took action contrary to the relevant rules/orders related to SCs/STs or their improper or bias implementation while conducting SRDs, regular drives and regularization of vacancies. The Committee should be apprised of the action taken in this regard within three months of presentation of this Report. The Committee should also be informed of the date when the shortfall in reservation has been filled up by respective reserved category candidates on regular basis.

Recommendation (Sl. No.9, Part II-B)

Taking cue from the case of Ms. Vinita Tyagi who was a General category candidate but selected as PRT (Humanities) and offered appointment under SC category and another case of Ms. Mamta who was appointed as TGT (Computer Science) under SC category but reportedly had not submitted her caste certificate, the Committee recommend to conduct a verification drive to check authenticity of castes certificates submitted by all the teaching and non-teaching employees working in NSES to ensure that no employment has been secured on the basis of false castes certificates or without genuine certificates. The Committee strongly recommend that teachers/employees found with false caste certificates should be terminated from ser

VICES and criminal proceedings should be against them and also against the officers who accept their certificates without proper verification.

Reply of the Government

An exercise to verify the caste certificates of all teaching and non-teaching employees has been initiated. The Government will terminate the services and initiate criminal action against any employee found to have obtained employment on the basis of false/forged certificates. Appropriate action would also be taken against the officials who failed to perform their duties.

Comments of the Committee

The Committee note that the Government has initiated action for the verification of the caste certificates of all teaching and non-teaching employees and appropriate action would be taken against the employees found to have obtained employment on the basis of false/forged certificates. The Committee again strongly urge that the guilty persons who secured employment on the basis of false caste certificate should be prosecuted under criminal laws without any leniency and favour. The Committee should also be apprised of the progress made in the matter.

Recommendation (Sl. No. 10, Part II-B)

The Committee strongly condemn the inappropriate recruitment procedure adopted by NSES and making mockery of PM's directives of Special Recruitment Drive for SCs/STs. The Committee strongly criticize the injustice done to the 10 SC teachers and reiterate immediate restoration of their services with seniority. The Committee recommend that action taken report of restoration of services of 10 SC teachers should be furnished to them within a month as promised by the Home Secretary during evidence held on 7th January, 2011. The Committee also

recommend that action taken replies on other observations and recommendations contained in Para II of this report should also be furnished simultaneously.

Reply of the Government

It is submitted that in view of the position explained in reply to recommendation made by the Committee in first paragraph, it is not possible for this Ministry to regularize the services of the aforementioned persons.

Comments of the Committee

The Committee are surprised to note that the Ministry of Home Affairs haven't changed their stand to honour the desire of the Parliamentary Committee in spite of the categorical acceptance by the Secretary of the Ministry of Home Affairs of gross discrepancies in NSES. The Government had shown their inability to give directions to the NDMC for giving even contractual employment to the petitioners till the outcome of Inquiry Authority report. The Ministry of Home Affairs received the Report of the Inquiry Authority on 2 April, 2012. (for the conclusion of the Report and action taken, please see comments of the Committee in respect of Recommendation No. 1)

The Committee strongly reiterate its recommendation that these victimized teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be maintained forthwith. The Committee reiterate that the Ministry of Home Affairs/NSES in consultation with DoP&T should find out a suitable way to resolve the issue of providing regular jobs to these teachers. The Committee also reiterate its recommendation that, if necessary, additional posts may be created to accommodate these 10 SC teachers who have been suffering for a long period due to bias and unjustifiable attitude of NSES. The Committee desire that the Government should consider the matter on

humanitarian ground at least and take positive steps to appoint the aggrieved 10 SC ex-teachers as early as possible, as now they are over aged and thus not eligible for applying for other jobs in the Government.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No.2, Para B)

2.1 Having noted that the Board of Governors (BoG) of NSES has supreme power in the Society, the Committee recommend that at least one of the members of the BOG should be nominated from the SC/ST category so that he can be part of the policy making body and can ensure that policy decisions taken are not against the interest of SC/ST employees. The Committee also recommend that BOG of NSES should review all policy matters which they made against the interest of SC/ST employees including PGT/TGT/PRT.

Reply of the Government

2.2 The recommendation of the Committee has been accepted. One of the members of the Board of Governors (BOG) of NSES will be from SC/ST category. All the issues, which may have any adverse impact on interests of SC/ST employees, will be placed before the next meeting of the BOG, after its re-constitution.

Comments of the Committee

2.3 Please see Chapter I Sl. No. 2

Recommendation (Sl no. 5 Para B)

2.4 The Committee recommend that in future NSES should make all their recruitments by following proper procedure. It should be careful in inviting applications through advertisement so that the vacancies and subject-wise posts are clearly mentioned. NSES should also prepare their plan for recruitment in advance in regard to direct recruitment and departmental promotion in Navyug Schools so that need of recruiting teachers on contract basis may be restricted to minimum and if

need arises, same teachers appointed on contractual basis may not be reappointed to avoid the unpleasant situation.

Reply of the Government

2.5 The recommendation has been noted for compliance.

Comments of the Committee

2.6 Please see Chapter I SI. No. 5

Recommendation (SI.No.9 Para B)

2.7 Taking cue from the case of Ms. Vinita Tyagi who was a General category candidate but selected as PRT (Humanities) and offered appointment under SC category and another case of Ms. Mamta who was appointed as TGT (Computer Science) under SC category but reportedly had not submitted her caste certificate, the Committee recommend to conduct a verification drive to check authenticity of castes certificates submitted by all the teaching and non-teaching employees working in NSES to ensure that no employment has been secured on the basis of false castes certificates or without genuine certificates. The Committee strongly recommend that teachers/employees found with false caste certificates should be terminated from services and criminal proceedings should be against them and also against the officers who accept their certificates without proper verification.

Reply of the Government

2.8 An exercise to verify the caste certificates of all teaching and non-teaching employees has been initiated. The Government will terminate the services and initiate criminal action against any employee found to have obtained employment on the basis of false/forged certificates. Appropriate action would also be taken against the officials who failed to perform their duties.

Comments of the Committee

2.9 Please see Chapter I SI. No. 9

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT

Recommendation (Sl.No.3 Para B)

3.1 The Committee recommend that an exclusive Reservation Cell which does not exist at present, should be created in NSES for looking after the affairs related to welfare of SCs and STs in NSES. The Committee also recommend that instead of taking assistance of Director (Liaison), NDMC in the matters of SCs/STs a full fledged Liaison Officer of not below the rank of Deputy Secretary well versed in reservation policy for SCs/STs should be appointed in NSES who will be the incharge of Reservation Cell. The Committee feel that comprehensive training should also be imparted to staff appointed in Reservations Cell and the officers in charge of SCs/STs matters so that they all will be equipped with the every knowledge/Government Orders related to welfare of SCs/STs.

Reply of the Government

3.2 It is submitted that NSES is a small organization having less than 500 teaching and non-teaching employees only. At the Headquarter level, only one officer is available. i.e. Deputy Director (NSES) and one Administrative Officer is available for administration and coordination purposes. In fact, Director (Education), NDMC is holding the additional charge of the post of Director (NSES). So a full fledged Liaison Officer not below the rank of Deputy Secretary heading a separate Reservation Cell may not be practical. A comprehensive training schedule for officers/staff dealing with the reservation matters will, however, be devised and implemented.

Comments of the Committee

3.3 Please see Chapter I Sl. No. 3.

Recommendation (SI.No.4 Para B)

3.4 The Committee are confused over the maintaining of rosters on post based i.e. treating PGT,TGT, PRT, etc. as a post and not on subject-wise post based rosters as is done by other educational institution. In the absence of this, it is very difficult to decide as to which posts will go to which category. The Committee, therefore, recommend that the rosters should be maintained on subject-wise post based system so that both fresh candidates and teachers/staff already in NSES could easily find out the position about the category of posts.

Reply of the Government

3.5 It is submitted that NSES is a small organization with only 7 Sr. Secondary and 4 Primary Navyug Schools. Hence, subject wise vacancies are limited and their further category wise bifurcation will hamper the interest of reserved candidates. Further, it is submitted that the DoP&T's instructions provide for grouping of posts for reservation in direct recruitment in case of isolated posts. It is felt that maintaining reservation cadre wise would be more beneficial for reserved candidates. The matter will, however, be examined in consultation with DoP&T and representation of SC/ST employees will be included in framing of policy matters related to reserve categories.

Comments of the Committee

3.6 Please see Chapter I Sl. No. 4

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendations (Part II-B. Sl. No. 1)

4.1 Having noted the humiliation and frustration faced by the highly qualified 10 SC ex-teachers in the hands of NSES authorities for no fault of theirs, the Committee strongly feel that all the 10 SC ex-teachers appointed by NSES in 2005 and 2007 on contract basis deceptively under 'Special Recruitment Drives' need to be given jobs on regular basis under SRD. Those PGT/TGT/PRT were in fact appointed against promotional and direct recruitment positions i.e. regular vacancies but thrown out of jobs after serving for 2 to 6 years, on the grounds that their appointment were on contractual basis. During the regular recruitment conducted in 2008, the committee note that, they appeared and passed the written examination but failed in interview due to various reasons as mentioned in the observations. The Committee strongly recommend that these victimized teachers should be taken back on their respective posts with immediate effect and accommodated against the regular posts. Their seniority should also be maintained forthwith. The Committee also recommend that for this purpose, Ministry of Home Affairs/NSES in consultation with DoP&T find out a suitable way out to resolve the issue of providing regular jobs to these teachers. The Committee feel that, if necessary, additional posts may be created to accommodate these 10 SC teachers who have been suffering for the long period due to bias and unjustifiable attitude of NSES.

Reply of the Government

4.2 The recommendation made by the Committee was referred to the New Delhi Municipal Council for its views. In this regard, the Council has mentioned as under:

- (i) These 10 ex-contractual SC teachers had applied against the advertisements during the years 2005 to 2007 which clearly indicated that the posts were to be filled up on contractual basis. Their appointment letters clearly indicated that their appointment was liable to be terminated at any time.
- (ii) They did not work for unduly long period on contractual basis. Even as per their own claim, only one applicant had worked for a period of 7 years. The period claimed by them in years was factually only academic sessions and not years. In the case of remaining 9 applicants, the period of contractual appointment ranged from 2 to 4 academic sessions. Even this was not a continuous appointment, but restricted to one academic session only. They were engaged afresh, if the post was not filled up on regular basis during meanwhile.
- (iii) The engagement of these 10 SC ex-contractual teachers was not against the Special Recruitment Drive for 'backlog' reserved vacancies but was contractual appointment against the extant current vacancies till the posts could be filled up on regular basis. The Committee has accepted in Para 8 of the recommendations (read observation No. 8 instead), the contention of DoP&T that the unfulfilled vacancies could not be treated as 'backlog' vacancies. Therefore, taking these 10 ex-contractual teachers back on duty treating them as appointees of Special Recruitment Drive for vacancies could not be treated as 'backlog' vacancies. Therefore, taking these 10 ex- 'backlog' reserved vacancies will not be possible.
- (iv) The Committee has agreed in para 4 (read observation No. 4 instead) of the recommendations with the stand of the Government that the regular appointments are made strictly in conformity with the regulations envisage holding of written subject test, interview etc., which is much more

comprehensive and rigorous procedure than that of contractual appointment which is restricted to walk in interview only. The contracted teachers who failed to qualify in the regular selection have no ground for seeking regularization.

- (v) Further, the recommendation has widespread and serious implications. In case it is accepted, the 36 ex-contractual teachers who have been qualified on the basis of their performance in the 2008 recruitment process may seek regularization from back date, i.e. the date of their initial contractual appointment. There may be cases of the reserved candidates who had worked on contractual basis during 2005-2007, but left the same for any reason whatsoever may now come forward and seek regularization from back date (though not working at the time of regular appointment during 2008). The Committee has accepted Government's contention that the contractual appointment was not against the SRD for backlog reserved vacancies, so taking the analogy of the Committee, even general candidates taken on contractual basis may seek regularization from date of their initial contractual appointment, claiming that they were taken against regular posts. Accepting the decision of the Committee would lead to opening of a Pandora box and lead to an uncontrollable string of representations, claims, court cases and will unsettle the settled issue. The Committee's recommendations, if accepted, will lead to similar demand, for retrospective regularization from all such contractual employees in various departments.

- (vi) It is also submitted that after the recruitment process of 2008, reserved category vacancies have been filled up either by selection of ex-contractual teachers or reserved candidates from open market. Taking the 10 SC ex contractual teachers, who failed to make the grade in the selection process would lead to same demand being made by other similarly placed persons, which would not be able to be handled by NSES, which has a small cadre strength. In fact taking these 10 SC ex-contractual teachers back would require termination of services of SC

teachers selected on their own merit in 2008 during regular recruitment drive.

- (vii) The Committee has differently interpreted the judgement of the Constitutional Bench of the Supreme Court in the case of Uma Devi to be applicable only for general candidates. The judgement is law of the land and is universally applicable. In case the society has taken some decision contrary to the judgement, the same is liable to be reviewed instead of committing the same mistake further by flouting the said judgement, (Ref. Observation No. 13).
- (viii) The Committee has referred to a recent ruling of the Supreme Court in para 13 of the recommendations (read Observation No. 13 instead), where the Apex Court has deprecated Union of India engaging casual workers for long without making them permanent. In this connection, it is submitted that it was a case where workers were consistently engaged for 30-40 years. The Apex Court still did not direct for their regularization, but advised UOI to consider enacting an appropriate regulation/scheme for their absorption and regularization. But in the present case, contractual teachers had worked for a short period of academic sessions with breaks.
- (ix) The implementation of the recommendation of the Committee would lead to wider consequences and impact contractual workers engaged in various public bodies. It is not a case where some discrimination has been made against SC/ST candidates. The Committee has noted that out of 19 SC candidates, working on contractual basis, 18 applied for the posts and 9 of them were selected. As regards, ST, all the 4 candidates were found up to the mark and were offered regular appointment. The other vacant posts of SC/STs were filled by the reserved candidates from open market and no reserved post at any stage was diverted to general category.
- (x) It is also submitted that any such decision of their regularization would have wide spread and cascading impact on different organization where

huge number of contractual manpower is engaged. Other that being contrary to various judicial pronouncements on the subject, it may be precedential in nature, detrimental to the organizational aspiration of appointing the manpower on the basis of relative performance of applicants and only the better ones getting selected. The issue of regularization of their contractual appointment was agitated by the petitioners before the Principal Bench of the CAT. On dismissal of their application by CAT, they have filed petition before the High Court of Delhi. The matter is presently pending before the Court.

- (xi) Similar issue was also raised by contractual teachers appointed by NDMC in its schools. Some of them also approached court of law for regularization of their services. In one such specified case WP© No.6335 and others of 2004, the Hon'ble High Court passed order on February 11, 2005. The operative part of the judgement is reproduced below :

“There could be innumerable situations where vacancies occur which require the engagement of persons on a temporary basis. To cite one example there may be a requirement for 100 teachers against which a corresponding number of persons have been appointed. Some of these persons may resign or may meet with an untimely death. If these vacancies are not filled up it would clearly strain the functioning of the School. What should the employer do in such cases? Assuming that recruitment must be done strictly in conformity with the Regulations which envisage the holding of a written examinations and interview etc. some persons may be employed on a contract which covers a period within which the employer reasonably expects the vacancies to be filled up in consonance with the Regulations. If these contractual employees are entitled to be regularized, the salutary Regulations can be easily circumvented. This would run contrary to the expectations of law. Alternatively an employer would rather suffer a set back to the efficient functioning of the Organization rather than employ persons on a contractual basis.”

This judgement was also upheld by the Hon'ble Supreme Court of India.

- (xii) Therefore, it is clearly evident that the appointments on contract basis were made in the given situation, in the best interest of the students. If these vacancies had not been filled up, it would have clearly strained the

functioning of the NSES schools. Therefore, it will not be possible for NSES to regularize the services of these 10 SC ex-contractual teachers.

In view of the position explained by NDMC, this Ministry is not in a position to accept the recommendation of the Committee.

As regard regularization/re-appointment on contract basis, etc. of 10 SC ex-teachers, the Ministry of Home Affairs in their post-evidence reply have stated that the direction of the Committee has been carefully considered by the Ministry in consultation with the NDMC/NSES and cited the following implications in this regard.

- (i) This will perpetuate contractual appointments without getting culminated into regular appointments.
- (ii) If any contractual appointment is offered to the SC candidates, then similar offers will also have to be made to other ex-contractual teachers belonging to OBC and General category who were also not selected in the regular recruitment process. The other ex-contractual teachers who had worked earlier at different points of time may also claim for contractual appointment on the same analogy.
- (iii) 9 ex-contractual teachers, which include 5 SC candidates have filed Court cases on the same issue, which are pending before the Hon'ble High Court and the matter is sub-judice.
- (iv) The appointment of the ex-contract teachers in NSES can have snow ball effect by having similar demands from the various categories of ex-contractual employees engaged in various departments of NDMC.

Comments of the Committee

4.3 Please see Chapter I SI. No. 1.

Recommendation (SI. No.6 Para B)

4.4 The Committee desire that the Ministry of Home Affairs – the Nodal Ministry through their own Liaison officer incharge of SCs/STs matters or some independent agency, should undertake an extensive verification drive to check the present

recruitment procedure in vogue in NSES and report to the Committee the discrepancies noticed by them during verification of all rosters, cases of regularization of contract/adhoc teachers since the inception of NSES as also the irregularities in **recruitment drive 2008.**

Reply of the Government

4.5 Sub-section (17) of Section 2 of the New Delhi Municipal Council Act, 1994 defines "Government" as the Government of the National Capital Territory of Delhi. The Government of NCT of Delhi has been, therefore, suitably advised to undertake verification of all rosters, cases of regularization of contract/ad-hoc teachers since the inception of NSES as also the alleged irregularities in recruitment drive 2008, as recommended by the Committee.

Comments of the Committee

4.6 Please see Chapter I Sl. No. 6.

Recommendation (Sl. No. 7 Para B)

4.7 The Committee also recommend that an officer not below the rank of Joint Secretary should be designated in the Ministry to regulate/supervise the affairs related to SCs/STs in NSES. The Committee feel that the Ministry cannot abdicate their responsibility by just mentioning that NSES is a Society **and independent body.**

Reply of the Government

4.8 It is submitted that New Delhi Municipal Council is a municipal body charged with municipal government of New Delhi. Navyug Schools are controlled by a Society i.e. Navyug School Educational Society (NSES), registered under the Societies Registration Act,1860 and fully financed by the NDMC. The Society has been set up to impart quality education to the children of the NDMC area. The New Delhi Municipal Council derives its powers from Part IX A of the Constitution, as has

been extended to the New Delhi area, and the New Delhi Municipal Council Act, 1994. Under the New Delhi Municipal Council Act, 1994, "Government" has been defined as the Government of National Capital Territory of Delhi. In view of the above, the Government of NCT of Delhi has been advised to take responsibility for regulation and supervision of the affairs relating to Scheduled Castes and Scheduled Tribes in NDMC, including NSES.

Comments of the Committee

4.9 Please see Chapter I SI. No. 7.

Recommendation (SI.no.8 Para B)

4.10 The Committee strongly recommend that appropriate action should be taken against the Liaison Officers who failed in their duties in taking action contrary to relevant rules/orders related to SCs/STs or their improper or bias implementation while conducting SRDs, regular drives and regularization of vacancies.

Reply of the Government

4.11 The matter was taken up with the New Delhi Municipal Council, which has clarified that the actions of the officers were on account of administrative exigencies and keeping the best academic interests of the students in mind. It has also been mentioned that NSES as an organization respects and protects the right of all, specially those belonging to reserved categories. It is submitted that after the regular recruitment process of 2008, the short fall in reservation has been filled up by respective reserved category candidates on regular basis.

Comments of the Committee

4.12 Please see Chapter I SI. No. 8.

Recommendation (SI No. 10 Para B)

4.13 The Committee strongly condemn the inappropriate recruitment procedure adopted by NSES and making mockery of PM's directives of Special Recruitment

Drive for SCs/STs. The Committee strongly criticize the injustice done to the 10 SC teachers and reiterate immediate restoration of their services with seniority. The Committee recommend that action taken report of restoration of services of 10 SC teachers should be furnished to them within a month as promised by the Home Secretary during evidence held on 7th January, 2011. The Committee also recommend that action taken replies on other observations and recommendations contained in Para II of this report should also be furnished simultaneously.

Reply of the Government

4.14 It is submitted that in view of the position explained in reply to recommendation made by the Committee in first paragraph, it is not possible for this Ministry to regularize the services of the afore mentioned persons.

Comments of the Committee

4.15 Please see Chapter I Sl. No. 10.

CHAPTER V

RECOMMENDATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT HAVE NOT BEEN RECEIVED

Observation (Sl.No. 1 Para A)

1. The Navyug School Educational Society (NSES) was registered in December, 1992 under the Societies Registration Act, 1860. It is 100% financed by the New Delhi Municipal Council (NDMC). The objects for which the Society is established inter alia are to establish, endow, maintain, control and manage Navyug Schools. The organizational set up of the NSES consists of Board of Governors (Governing Body) and General Body. The Board of Governors is reported to consist of 8 members including Chairman, NDMC as the Chairperson of the Board of Governors. All the members are reported to be nominated by the Chairperson. The Committee note that not less than 4 distinguished academicians/educationists are also nominated by the Chairperson as co-opted members of Board of Governors. In the past, Director (Estate Enforcement) NDMC was said to be nominated as the representative of the SC/ST in the Board of Governors. According to Memorandum of Association of the Society, the Board of Governors of NSES is the supreme body of the Society, whose decision in all matters not expressly expressed provided for in the rules shall be final. Further it has inter alia the powers to appoint teachers and other staff of different schools run by or under the Society. The Committee further note that the Board of Governors has delegated full powers of appointment to the Chairperson on 27th March, 1995. The Committee observe that the Chairperson, NDMC is, therefore, empowered to act on half of the supreme body of the NSES besides having the power to nominate the members of the Board of Governors of NSES.

Observation (Sl.No. 2 Para A)

2. The SC ex-teachers through their various representations have submitted that they were recruited by NSES through Special Recruitment Drive for SCs/STs in the years 2005 and 2007 as PG/TG/Primary Teachers on contract basis. They claim that Special Recruitment Drive for SCs/STs were meant to fill up vacancies only on regular basis. However, NSES appointed them deliberately on contract basis. Instead of regularizing their services as was the procedure, their services were terminated since April, 2009 and now that they are jobless and some of them are over-age. It was also stated in their representation that despite their case was placed before various authorities of Government of India, the Ministry of Home Affairs have not taken final decision in the matter. The Committee feel services of all the SC ex-teachers had been terminated after they had worked for more than two years in Navyug Schools.

Observation (Sl.No. 3 Para A)

3. In regard to Special Recruitment Drives conducted in 2005, 2006 and 2007 for recruitment of SC teachers, the Ministry of Home affairs have reiterated that they were appointed on purely contract basis subject to condition that this contract appointment would not confer on them any claim for regular appointment and their services can be terminated any time without assigning any reason. The Committee observe that some of SC ex-teachers had been working prior to 2005. The Committee feel that services of SC ex-teachers should not have been renewed after completion of their contract period. By renewing their contract period every now and then, NSES in a way raised their hope for getting absorbed in future. By adding "Special Drive for SC/ST" in the advertisement in 2005 and 2007, NSES confused one and all into thinking that posts advertised were in pursuance of DoP&T orders

dated 5th August, 2004 for country-wide special drive undertaken to fill up SC/ST backlog vacancies.

Observation (Sl. No. 4 Para A)

4. The Committee had specifically asked as to why no regular recruitment drive was conducted to fill up SC/ST backlog vacancies before 2008, the reply was not specifically answered. It was stated that NSES filled up the posts of PGT, TGT and Primary Teachers on contract basis during the years 2005 to 2007 against promotion as well as direct recruitment quota. It was further added that as filling up the posts on regular basis could have consumed considerable time and non-availability of the teachers would have adversely affected the studies of the students, the contractual appointments were made considering the extant administrative exigencies and pressing academic requirements. The Committee are distressed to note that NSES instead of conducting regular recruitment for regular SC/ST vacancies resorted to contractual appointments continuously for 3 years in a row. The Committee may agree to some extent with the stand of the Government that the regular appointments are made strictly in conformity with the regulations envisages holding of a written subject test, interview, etc. which is a much more comprehensive and rigorous process than that of contractual appointments which is restricted to walk-in-interview only. Yet it is a matter of concern that because of wrong policy to recruit candidates on contract basis, services of teachers had not been regularized.

Observation (Sl.No. 5 Para A)

5. The Committee note that NSES advertised 73, 19 and 37 posts for PGT/TGT and Primary Teachers on contract basis during the years 2005, 2006, 2007 respectively. The Committee were informed that NSES recruited these teachers on contract basis just to fill up promotional and direct recruitment quota till regular recruitment/promotion by the SC/ST teachers. The Committee regret that even

though those SC ex-teachers were recruited against regular vacancies of promotion and direct recruitment quota, they were thrown out of job just because they were recruited on contractual basis. When recruitment to a post is made both by promotion and direct recruitment, reserved vacancy falling in promotion quota which cannot be filled due to non availability of eligible persons belonging to SC/ST in the feeder cadre can be temporarily diverted to the direct recruitment quota and filled by recruitment of candidates belonging to SC/ST as the case may be vide DoP&T order No. AB/4017/30/89-ESst(RR) dated 10th July, 1990. The logic of NSES resorting to contractual appointment to ensure that there is no problem with regard to studies of children studying in Navyug Schools may hold good if done once in a while but repeating it year after year appears to be a deliberate attempt to deprive the eligible PGT/TGT/Primary Teachers of their fundamental right to employment. Having contract teachers to fill the gap for regular teachers will only hamper the proper education of children as there will be no motivation for them to work hard. The teachers may also not be able to give their best as they are hired for a limited period. Hiring a large number of teachers every year on contract basis and firing them after every contract period or so is very unfortunate for the school children of Navyug Schools. Not having a regular recruitment just because it consumes considerable time and non-availability of the teachers would have adversely affected the studies of the students appears to be unconvincing as there seems to be lack of proper planning for recruitment of teachers.

Observation (Sl.No. 6 Para A)

6. From the reply given by the Ministry of Home Affairs and NDMC, it is clear that they never treated Special Recruitment Drive for SCs/STs undertaken in 2005 to 2007 as Special Recruitment Drive to fill up backlog vacancies as envisaged in DoP&T orders of 2004 and stressed that it was purely contractual appointment to fill

up both promotional and direct recruitment posts. The representative of DoP&T admitted that the point that SC/ST vacancies had been filled up on contract basis was never raised before them while they were taking up meetings with the concerned officers of the Ministries and the Departments in pursuance of launching of Special Recruitment Drive in 2004. It has also been submitted by the representative that they were told by NDMC that Special Recruitment Drive conducted by them was not against backlog reserved vacancies but in regard to filling up the vacancies that were reserved for SCs/STs and OBCs for which they had not got candidates. The Committee regret that the contractual appointments were undertaken to fill up shortfall of SC/ST/OBC vacancies through the Special Recruitment Drive, which NSES should have done through regular recruitments but not through Special Recruitment Drive.

Observation (SI.No. 7 Para A)

7. During evidence held on 7th January, 2011, the representative of DoP&T explained the difference between backlog and shortfall. A backlog reserved vacancy is one which was reserved in a previous recruitment year and an effort was made to fill it up but it could not be filled up. Such reserved vacancy cannot be filled up by any other candidate and these vacancies are kept vacant and become backlog reserved vacancies for the subsequent recruitment year. In the case of shortfall it was explained that in the post based roster if at any point of time in a cadre of 100 posts the number of SC candidates appointed by reservation is less than 15 i.e. say 10 then there is a shortfall of five SC posts.

Observation (SI. No. 8 Para A)

8. On the basis of the explanation given by DoP&T, it is evident that those were unfilled vacancies of SC/ST teachers for which NSES conducted Special Drive in 2005 to 2007. These vacancies could not be treated as backlog reserved vacancies

since NSES had not made any effort to fill those vacancies in previous recruitment years and they were treating those vacancies as unfilled. But when it was announced by DoP&T to fill up all backlog vacancies of SCs/STs in 2004, the Committee feel that NSES found an escape route to have Special Drive for SCs/STs on contract basis to cover their inadequacies. While deposing before the Committee, Home Secretary had opined that the posts were all regular but the appointment of 10 SC ex-teachers were on contract basis. The ideal thing would have been for the NDMC or the Society at that time was to have regular appointments by having an examination, the interview and then made the regular appointments. It is, therefore, amply clear that NSES had not been filling up vacant SC/ST posts regularly and kept all SC/ST posts vacant for reasons best known to it. Since no efforts were made to fill these up by regular recruitment, they could not conduct Special Recruitment for backlog vacancies in pursuance to DoP&T orders of 5th August 2004 and tried to fill up by contractual appointment.

Observation (SI.No. 9 Para A)

9. In regard to regularization of services of SC ex-teachers it has been claimed that since they were appointed on contract basis, their services cannot be regularized. In this connection, it was tried to explain the difference with contract appointment and regular appointment. It was also stated that on contract appointment, the minimum standard is to be met and need not be meritorious.

Observation (SI.No. 10 Para A)

10. The Committee note that no teaching staff were regularised by NSES since 1999. However, NSES did not provide information about the non-teaching staff regularised by BoG of NSES. The Committee have come to know that NSES was regularising General category teaching and non-teaching staff who were recruited without any interview and working on contract/ad-hoc basis since its inception, for

example Shri Rakesh Tyagi, PGT (Physics) who was working in NSES since January, 1994 on contract basis, was regularised in August, 1994 w.e.f. January, 1994 and Shri Dinesh Kumar who was also recruited by NSES in January, 1994 on contract basis and was regularised in August, 1994 w.e.f. from initial appointment on contract basis. Shri Anil Kumar Singh, PGT (School Councilor) joined on contract basis in 1994 and was regularised in 1999 against backlog vacancy of SC/ST. All these three were recruited by NSES without any interview and their services were regularized. The Committee firmly believe that there would be many more such cases of recruitment/regularisation of teachers in NSES.

Observation (Sl.No. 11 Para A)

11. The Committee also observe from the list of 22 (1 teaching and 21 non-teaching staff) obtained by the petitioners from NSES vide NSES RTI Reply vide letter No. 1872/NSES/M.SECY/2010 dated 11.8.2010 that BoG of NSES kept regularising General category teaching and non-teaching staff who were recruited without any interview and were working on contract/ad-hoc basis, particularly 3 non-teaching staff in the year 2008. In regard to regularizing the contract SC ex-teachers, the Home Secretary cited the Supreme Court judgement which came in 2006 according to which it was stated that contractual appointment cannot be regularized against regular posts unless for very special circumstances. Otherwise it is stated that there would have been no problem for NSES to regularize. The Committee feel that while the non-teaching staff could be regularised by NSES despite Supreme Court judgement then what is the problem in regularising the contract ex- teachers.

Observation (Sl.No. 12 Para A)

12 The Committee note that the NCSC -- a constitutional body -- in their letter accept the earlier report of NSES and agreed with the report that the contract posts could not be filled up. However, the NCSC reviewed its earlier opinion and observed

in their letter dated 26th November, 2010 that the grievances of the petitioners were genuine one and first opportunity should have been given to the teachers already working and having good academic teaching records and that NDMC could not arbitrarily change rules and deprive the most eligible and competent people from joining permanent jobs.

Observation (Sl. No. 13 Para A)

13 The Committee refuse to accept the argument of Ministry of Home Affairs and NSES that the contract teachers could not be regularised in view of ruling of the Supreme Court particularly in view of 'Uma Devi case'. The Committee want to point out the facts that the case referred to by the Ministry of Home Affairs and NSES i.e. 'Uma Devi' case is related to a general category contract employee. Moreover, the Committee note that several non-teaching contract teachers were regularised by the BoG of NSES even after the above referred ruling of the Supreme Court. Further, the Committee desire to invite attention of both the Ministry of Home Affairs and NSES to the recent ruling of the Supreme Court given in March, 2011 in which the Court expressed its displeasure at the Boarder Road Organisation's treatment of casual workers. The Supreme Court has deprecated the Union of India engaging casual workers and keeping them in temporary service for long without making them permanent employees, thereby denying the benefits due to them. In the instance case, the Union of India appealed against the Guwahati High Court judgement directing the government to regularise the services of members of Vartak Labour Union, some of whom had been working with the BRO for 30 years. Though the Bench of the Supreme Court observed that "casual employment terminates when the same is discontinued and merely because a temporary or casual worker has been engaged beyond the period of his employment, he would not be entitled to be absorbed in regular service or made permanent, if the original appointment was not in

terms of the process envisaged by the relevant rules”, the Bench ruled that “however, in the facts and circumstances of the case, where the union members had been employed in terms of the regulations and had been consistently engaged for the last 30 to 40 years, of course with short breaks, “We feel the Union of India would consider enacting an appropriate regulation/scheme for absorption and regularisation of the services of casual workers engaged by the BRO for execution of its on-going projects.” The Committee feel that the case of aggrieved SC ex-teachers is also not much different to the above case. These teachers were also engaged through “Special Recruitment Drives” but on contract basis against the governments orders.

Observation (Sl.No. 14 Para A)

14. In regard to recruitment procedure it is understood from the representative of NSES that prior to 2008 no written examination was conducted by NSES for regular appointment of teachers. Prior to 2008, it was stated that the number of posts were less and so were the applicants. NSES used to do short-listing on the basis of academic performance of the candidates followed by interviews and as such there was no need to conduct written examination. In this connection, SC ex-teachers have claimed that they were appointed as PGT/TGT/Primary Teachers on contract basis following the procedure as at para 43. In reply, NDMC has inter alia stated no contractual teacher has been regularized by NSES during the last ten years.

Observation (Sl.No. 15 Para A)

15. The Committee are surprised over the reaction of the NSES that if the Society had violated the guidelines and made illegal appointment on contractual basis as alleged by the petitioners in their representations, all the persons who were taken on contractual basis were illegally or irregularly appointed and such illegally or irregularly appointee cannot claim that Society should commit another irregularity and illegality

and appoint them on a regular basis without following regular procedure for regular appointments.

Observation (Sl.No. 16 Para A)

16. It was observed that vacancies for PGT were filled up on contract basis in the years 2005, 2006 and 2007 but the same vacancies were not notified when regular recruitment was carried out. When enquired, it was informed that the Board of Governors accepted the proposal on 24th March, 2008 according to which there should be 100% promotion in PGT post and if these cannot be filled up on promotion then by direct recruitment and not on contract basis. The Committee were informed that NSES made amendments in Recruitment Rules as per the requirement of the Department and demand of the staff with the approval of the competent authority. The amendment was unnecessary and seem to have been made to stop two SC PGTs from applying against direct recruitment in 2008.

Observation (Sl.No. 17 Para A)

17. The Committee feel that the reasons forwarded by NSES that the RRs for various posts have been framed and modified from time to time according to the requirement of the department and with the approval of the competent authority i.e. Chairman, NSES/NDMC, as ridiculous. The Committee note that the RRs were changed regularly by the BoG of NSES even for the same post in every year which the Committee understand, is to give benefit to favourite candidates of NSES. The Committee also noted that NSES never bothered to consult DoP&T or its nodal Ministry i.e. Ministry of Home Affairs before framing/amending the RRs and always follows its BoG.

Observation (Sl.No. 18 Para A)

18. To a point raised by the aggrieved SC ex-teachers that as per DoP&T OM No.AB/14017/22/89-Estt (RR) dated 15th May, 1989 that while framing /amending

rules it should be ensured that the interest of SCs/STs are not adversely affected and not aimed to block the entry of direct recruit and also not to fill up backlog reserved vacancies. It was stated that the amendment carried out on 24th March, 2008 by which filling up of PGT posts from 25% by direct recruitment and 75% by departmental promotion was changed to 100% departmental promotion failing which by direct recruitment, 2 SC ex-teachers were deprived. In reply, NDMC denied the allegation and reiterated that there is still provision of filling up of post of PGT by direct recruitment if the eligible candidates are not available in the feeder cadre as per modified and approved Recruitment Rules. In this connection, the copy of the minutes of meeting by which the amendment was carried out on 24th March, 2008 were seen. It does not have a provision that 100% departmental promotion for PGT posts will go to direct recruitment. Moreover, when the posts are filled up by 100% departmental promotion, such posts cannot be filled up by diverting the same to direct recruitment as per the DoP&T OM No.AB/4017/30/89-Estt (RR) dated 10th July, 1990. The case in point is that of Shri Rahul Sultana and Shri Hakam Singh. Shri Rahul Sultana working since 2003 as teacher in Navyug School. He and Shri Hakam Singh were selected as PGT (Computer Science) and PGT (Economics), respectively under Special Recruitment Drive for SCs and STs in 2005 and 2007, respectively. They were fulfilling all the criteria to apply for regular PGT post. However, they were deprived from applying for PGT posts in regular recruitment conducted in 2008 by citing the above amendment in Recruitment Rules. The Committee recall that the instructions provided in DoP&T OM No.AB/14017/22/89-Estt (RR) dated 15.5.1989 states that while framing/amending rules, the interest of SCs/STs are not adversely affected, are kept in view to block the entry of direct recruitment and also not to fill up the backlog of reserved vacancies. The Committee, therefore, strongly view that amending the Recruitment Rules on 24th March, 2008 for PGT posts just before

conducting regular recruitment in June, 2008 was done with ulterior motivation. Otherwise, where was the need to amend the Recruitment Rules when it is said that in the year 2010, the post of PGT (Economics) was advertised due to non-availability of eligible departmental candidate and the post of PGT (Computer Science) was not advertised inspite of five vacancies. It is truly an example of harassment and depriving the legitimate rights of 2 SC ex-teachers who worked many years on contract basis in Navyug Schools.

Observation (Sl.No. 19 Para A)

19. Further, the Committee feel that any amendment in Recruitment Rules should not be done with retrospective effect. If it is done then it means that the institution wants to favour or dis-favour any particular candidates. NSES made amendment in its RRs for PGT in 2008 but from retrospective effect and implemented the rule to all the backlog/shortfall vacancies resulting in deprivation of Shri Rahul Kumar Sultana and Shri Hakam Singh from their legitimate right on being selected under SRDs.

Observation (Sl.No. 20 Para A)

20. The Committee note that NSES discontinued the services of Shri Rahul Kumar Sultana and Shri Hakam Singh (both eligible for PGT post) as per the amendment in RRs to fill up the PGT posts through 100% department promotions. On the other hand NSES hired the services of M/s NIIT to teach senior secondary classes through their PGT ignoring the same criteria.

Observation (Sl.No. 21 Para A)

21. The Committee observe that NSES never consulted or informed DoP&T or Ministry of Home Affairs about their recruitment drives whether it is regular or special drive basis. The Committee also note that the Ministry of Home Affairs never took interest in supervising the SRDs conducted by NSES at any stage as required under the DoP&T Orders. Had the Ministry monitored the SRDs and other matters related

to SCs/STs in NSES, the lapse done on part of NSES to conduct SRDs on contract basis would have been prevented.

Observation (Sl.No. 22 Para A)

22. According to post evidence reply, in 2008, a total of 114 candidates were selected for the post of TGT, Primary Teacher (Academics) and Primary Teachers (Activity) out of which 59 (SC-19) were working on contract basis and 58 (SC-18) candidates had applied against the advertisement and circular issued by NSES. A total of 36 including 9 SC contractual teachers got selected on regular basis.

Observation (Sl.No. 23 Para A)

23 The Committee note that against the total 55 vacancies as advertised in the newspaper on 17th June, 2008, 131 candidates were selected in three final lists declared on 26th May, 2009, 31st July, 2009 and 28th October, 2009 without any further notification. The petitioners have alleged that NSES selected more candidates than what were published in the advertisement dated 17th June, 2008 in connection with regular recruitment conducted by NSES. In case of TGT, the post published was 24 but NSES had provided the vacancies published and filled at 33. The petitioners have alleged that NSES has selected 33 persons as TGT. In case of Primary Teachers (Humanities & Science), the post published was 9+9= 18, whereas NSES has mentioned the vacancies published and filled as 36+23=59. The petitioners have alleged that NSES selected 37+28=65 persons as Primary Teachers (Humanities and Science). In case of Primary Teachers (Activity), the post published was 13 while the NSES has mentioned the vacancies published and filled as 22. The contention of the petitioners that the excess vacancies filled in case of three categories of posts are backlog vacancies seem to be true as in their reply NSES has admitted that it ensured filling up not only most of the backlog reserved vacancies but also other pending vacancies in the year 2008-09. By mixing all current and backlog vacancies

together and by not mentioning the exact no. of SC/ST vacancies both backlog and current in the advertisement, the NSES seems to be totally at a loss to conceal their misdeeds by confusing the Committee. NSES has not only clubbed the backlog vacancies of 2005-2007 of SC/ST with General quota for recruitment on 17th June, 2008 but also ceiling of 50% on backlog vacancies were imposed and recruited no SC/ST candidates. This is a clear violation of article 16 (4 B) and 81st amendment of Constitution. Not only that excess candidates were selected than the published vacant posts, it has also been alleged that OBC posts were never advertised for filling up of TGT posts. Yet candidates from OBC quota were selected. In reply, NSES has stated that there is a provision for reservation of OBC category in direct recruitment. The Committee find the reply very absurd. The other two serious allegations are also made against Chairman, NDMC that those excess vacancies were supposed to be regularized but deliberately declined by him and that several vacancies were filled by outsiders etc. by bribery. These allegations, however, have not been refuted by NSES and needs to be thoroughly examined by an independent authority.

Observation (Sl.No. 24 Para A)

24. In reply to holding of interviews of SC/ST/OBC on the same day and same time with the general category, candidates, it has been stated that Director (Liaison), NDMC was an integral part of the constituted Selection Board as a representative of SC/ST. The Committee note with deep regret that NSES violated DoP&T OM No.1/1/70-Estt.(SCT) dated 31st July, 1970 (Para 2(e)) with *mala fide* intention to reject more and more SC candidates.

Observation (Sl.No. 25 Para A)

25. The Committee also note that no vacancy for OBC category was published in the Advertisement dated 17th June, 2008 under TGT cadre. The Committee fail to

understand how did NSES then receive the applications from OBC candidates and finally selected 6 candidates under the OBC category.

Observation (Sl.No. 26 Para A)

26. The Committee also note that criteria of minimum qualifying marks were fixed on 29th June, 2009 only after declaring the first final list of selected candidates on 26th May, 2009. On seeing the copy of the file noting supplied by the petitioners obtained by them under RTI Act, it *prima facie* appears that the file noting was tampered with the intention to cover up the mistake done on the part of NSES. The Committee take serious note that NSES has no hesitation in presenting false information to them.

Observation (Sl.No. 27 Para A)

27. From the same copy of file noting it was observed that the minimum qualifying marks of 45% was fixed for General category and 30% marks were fixed for all SC/ST and OBC categories by NSES whereas reservation of minimum 30% marks cannot be given to OBC categories who are to be considered at par with General category. With the result, several SC/ST candidates were deprived of their chance. After conducting the written examination of 100 marks each for both the posts of TGT and PRT on 21st December, 2008, the 100 marks were scaled down to 60% for written examination, 30% for interview, 5% each for higher qualification and higher experience than prescribed in RRs. Ratio of 1:5 for calling candidates for interview against the posts were arbitrarily not maintained and with the result, several candidates who had qualified the written examination were not called for interview as per their decided ratio of 1:5.

Observation (Sl.No. 28 Para A)

28. The Committee are perturbed to note how NSES had offered a Primary Teacher post to Ms. Vinita Tyagi - a general candidate against SC post. Through such an example, it is not difficult to conclude how the NSES is working.

Observation (Sl.No. 29 Para A)

29. The most disturbing point that was more telling was in giving high marks in interview to those alleged to be the favourites of the NSES whereas SC ex-teachers who had been working for 2 to 7 years were given less marks or no marks at all. In regard to marks allotted to higher qualifications too, the Committee notes with distress that marks were not given according to higher qualifications as it is evident from the statements of marks obtained by petitioners under RTI Act. The reply of NSES that marks for higher qualification/experience were allotted as per fixed criteria and applied uniformly is absolutely untrue in view of information given in the statement.

Some of the glaring irregularities committed by NSES are as under :-

- (i) The Committee notes that two candidates (one ST and one General category) Shri Digamber Singh and Ms. Swati Sahni who were selected for TGT (Computer Science) post had possessed B.I.S (Hons) degree as shown in the merit lists. As per information possessed by the petitioners obtained under RTI ACT, the Vivekananda Institute of Professional Studies which awarded this degree, was never recognised and affiliated by AICTE (All India Council for Technical Education) and also the same nomenclature degree was never permitted by U.G.C. The GGSIP University of Delhi also cleared in its RTI reply that B.I.S. (Hons) was never equivalent to B.C.A. which is the prescribed qualification for TGT (Computer Science) post. Shri Digamber Singh was also given 5 marks for 6 months experience.
- (ii) The Committee also notes that one candidate Shri Naresh Kumar possessed only B.Tech (Computer Eng.) degree which was never asked in the RRs for his post. The Committee also notes that despite not having any other degree possessed by Shri Naresh Kumar, he had been given 5 marks against higher degree than the prescribed qualification. Ms. Rajni Meena, an selected ST candidate for PRT (Humanities) was given full 5 marks for 'Nil' experience.

- (iii) The Committee also note that Ms. Mamata, SC candidate who was selected for TGT (Computer Science) had not submitted her original caste certificate. Even then she was selected. She was further given full 5 marks for higher qualification just for her one year diploma in Computer science whereas Shri Raj Kumar having same qualifications was given nil marks.
- (iv) The Committee note that Shri Rahul Kumar Sultana one of petitioners, who had been working for more than 6 years on contract basis in NSES as a PGT (Computer Science) was not selected by not giving marks at all for experience and very less marks in the interview. The Committee think that if extra marks for experience and proper marks in interview were allotted to Shri Sultana, he would definitely have topped the merit lists amongst all categories candidates. Similarly, Ms. Geeta, TGT (Science), Ms. Manju Pereva, TGT (English), Ms. Pratibha, TGT (Work Experience), Shri Anil Kumar, TGT (PET), Ms. Saroj, TGT (ART), Ms. Saroj, PRT (Science), Ms. Hemlata, PRT (Humanities) and Ms. Kunta Anand, PRT(PET) other petitioners, were also given very less marks in interview or no marks allotted for experience.

Observation (Sl.No. 30 Para A)

30. It is also noted that without publishing post reserved for OBC, Shri Praveen Kumar an OBC candidate was selected as TGT (PE) in recruitment 2008, and accommodated against SC candidates who were not given prescribed extra marks for higher qualification and experience. Similarly, Shri Anjani Prasad, Ms. Kavita, Ms. Archana Tanwar, TGT (ART) and Ms. Rekha Kumari, TGT (Science) were also selected as OBC candidates in spite of fact that OBC vacancies were not published. Whereas Ms. Saroj, TGT (Art) an SC was deprived of selection inspite of being in merit.

Observation (Sl.No. 31 Para A)

31. According to NSES website, there are altogether 11 Navyug Schools in NDMC area. These are Navyug Sr. Sec. School, Sarojini Nagar; Navyug Sr. Sec.

School, Peshwa Road; Navyug Sr. Sec. School, Laxmibai Nagar; Navyug Sr. Sec. School, Moti Bagh (NW); Navyug Sr. Sec. School, Lodi Road; Navyug Sr. Sec. School, Vinay Marg; Navyug Primary School, Tilak Nagar; Navyug Primary School, Mandir Marg; Navyug Primary School, Pataudi House; Navyug School, Jor Bagh; Navyug School, Darbhanga House. According to information submitted to the Committee at para 112, category-wise sanctioned strength of PGT, TGT, Primary Teachers (Academic) and Primary Teachers (Activity) are 72, 135, 83 and 25 respectively. The Committee feel that the staff strength of PGT, TGT and PRT posts are not sufficient for meeting the requirement of these schools. The Committee also note that despite having backlog sanctioned regular vacancies TGT (Hindi) and post of TGT (Social Studies), no vacancies of these posts were published by NSES in the Advertisement whereas particularly 2 posts of TGT (Hindi) and 3 posts of TGT (Social Science) were created due to up-gradation of Navyug School Mandir Marg.

This deprived Ms. Hemlata for applying for the post of TGT (Hindi). Also, NSES has not mentioned category-wise break up of posts i.e. to which category the post goes. Because of this if a candidate wants to apply in TGT (Computer Science) post under SC category then he doesn't know whether that vacancy is reserved or unreserved. Therefore, he will feel cheated. The Committee also fail to understand when NSES say that subject-wise reservation is being given then under what method allotted reservation for different posts are allotted. If NSES are treating TGT and PRT as post then why they do not publish single merit list each for TGT and PRT posts.

Observation (Sl.No. 32 Para A)

32. Regarding Liaison Officer and Reservation Cell in NSES, The Committee note that no separate Liaison Officer and Reservation Cell for SCs/STs were virtually functioning in NSES. The Director (Liaison) of NDMC was assigned the work of

Liaison Officer of NSES. He was also handling the additional charge of Director (Vigilance), NDMC. The Committee are also surprised to note that NSES in their reply admitted that adequate training was imparted to all the officers dealing with SCs/STs matters even then the grave mistakes were taken place in handling SRDs in 2005-2007 and regular recruitment in 2008.

Observation (Sl.No. 33 Para A)

33. According to vacancy position as per the roster as on 31st December, 2009, there are vacancies for SCs and STs in PGT and TGT posts. These vacancies are reported to be against promotion.

Observation (Sl.No. 34 Para A)

34. NDMC did not furnish the information in regard to progress report of filling up of backlog sanctioned vacancies from the year 2004 to 2010. NDMC were also asked to furnish backlog of all vacancies resumed for SCs as in 2004 onwards. They furnished the details of unfilled vacancies for SCs/STs. The Committee note that from 2004 onwards, there are continuous SC and ST unfilled vacancies in all cadres of PGT, TGT, Primary Teachers (Academic) and Primary Teachers (Activities). Instead of filling up those by contractual appointment, NSES should have had direct recruitment for all those posts as departmental posts can be temporarily diverted to direct recruitment.

NEW DELHI
26 November, 2012
5 Agrahayana, 1934(Saka)

(GOBINDA CHANDRA NASKAR)
Chairman
Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

ELEVENTH SITTING

(21.12.2011)

MINUTES

The Committee sat from 1500 to 1630 hrs. in Committee Room No. 'E', Parliament House Annexe, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

LOK SABHA

2. Shri Bhudeo Choudhary
3. Smt. Jyoti Dhurve
4. Shri Prem Chand Guddu
5. Shri Mohinder Singh Kaypee
6. Shri Ashok Kumar Rawat
7. Shri Bajju Ban Riyan
8. Dr. Kirit Premjibhai Solanki
9. Shri Lalit Mohan Suklabaidya
10. Shri Bhausahab Rajaram Wakchaure

RAJYA SABHA

11. Shri Jabir Hussain
12. Shri Lalhming Liana
13. Dr. Bhalchandra Mungekar
14. Shri D. Raja
15. Shri K.B. Shanappa

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director
3. Shri S. Chatterjee, Additional Director

2. At the outset, the Chairman welcomed the representatives of the Ministry of Home Affairs and New Delhi Municipal Council (NDMC).

3. The Committee then took oral evidence of the representatives of the Ministry of Home Affairs and NDMC on the subject "Termination of 10 SC ex-teachers appointed by Navyug School Educational Society of NDMC on contract basis during SRDs 2005 and 2007".

4. The evidence was completed.

(The witnesses then withdrew)

5. A verbatim record of the proceedings was kept.

The Committee then adjourned.

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

THIRTEENTH SITTING

(13.02.2012)

MINUTES

The Committee sat from 1500 to 1600 hrs. in Main Committee Room, Parliament House Annexe, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

LOK SABHA

2. Shri Bhudeo Choudhary
3. Smt. Santosh Chowdhary
4. Shri Prem Chand Guddu
5. Dr. M. Jagannath
6. Shri Mohan Jena
7. Shri Mohinder Singh Kaypee
8. Shri Virendra Kumar
9. Shri Bajju Ban Riyan
10. Dr. Kirit Premjibhai Solanki
11. Shri Lalit Mohan Suklabaidya
12. Shri Bhausahab Rajaram Wakchaure

RAJYA SABHA

13. Shri Jabir Hussain
14. Shri D. Raja
15. Shri K.B. Shanappa
16. Shri Ishwar Singh
17. Miss Anusuiya Uikey

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director

2. At the outset, the Chairman welcomed all the Members of the Committee. Thereafter the Committee considered the Memorandum dated 3 February, 2012 on Action Taken Replies by the Government (Ministry of Home Affairs) on the recommendations contained in the Thirteenth Report (15th Lok Sabha) of the Committee on the subject "Termination of 10 SC ex-teachers appointed by Navyug School Educational Society under New Delhi Municipal Council on contract basis during Special Recruitment Drives 2005 and 2007".

3. While considering action taken replies furnished by the Ministry of Home Affairs, it was pointed out that during the evidence, the Home Secretary had categorically accepted that he had seen some papers which suggested him that gross irregularities had been done. The Committee also recalled the following excerpts from the verbatim of the evidence of the representatives of Ministry of Home Affairs and NDMC held on 21 December, 2011, in this regard:-

xx

xx

xx

"SHRI R.K. SINGH: Mr. Chairman, Sir, you would have noted that I, almost, categorically said that from what I have seen from the papers, it seems the regular recruitments which have been made, will have to be cancelled. Why I said that because I had seen some papers which suggested me that gross irregularity had been done and I had mentioned this to you.

Sir, on the basis of whatever I have seen of the papers that is the statement which I made. I agree entirely with hon. Members that the appointment process prima facie to me seems to be irregular. I am not saying it much more categorically because we have appointed a person to enquire into it. If I say something categorically, that I will be pre-empting him. This is the only reason why I am not expressing myself very categorically on this issue. I have already indicated as to what I felt about the recruitment process which has been gone through. In fact, in our discussions, I also pointed out this issue to my officers. Whatever I have seen of the papers and the conclusions to which we came, I also imparted them to you. At the same time, I do not want to pre-empt the Enquiry Officer, otherwise people will say that I have thrust my view on the Enquiry Officer. It will not be proper for me to make more categorical statement on that".

4. The Committee took it seriously that the Ministry of Home Affairs, after having noted that gross irregularities, have not taken in their recommendations objectively in resolving the plight being faced by the aggrieved teachers. The Committee in their 13th Report had recommended that the Ministry of Home Affairs – the Nodal Ministry through their own Liaison Officer incharge of SCs/STs matters or some independent agency, should undertake an extensive verification drive to check the present recruitment procedure in vogue in NSES and report to the Committee the discrepancies noticed by them during verification of all rosters, cases of regularisation of contract/ad hoc teachers since the inception of NSES as also the irregularity in recruitment drive – 2008 (Recommendation No. 6). In response to the recommendation of the Committee the Ministry of Home Affairs has informed that the matter is being enquired by Shri R. Chandramohan, Principal Secretary, Government of NCT of Delhi which in the view of the Committee is highly preposterous. The recommendation of the Committee that an independent body should be entrusted with the responsibility of such enquiry has clearly been ignored. Had the Ministry of Home Affairs been serious about the matter they would have engaged an independent agency or CBI to enquire into the matter of who has the power of filing FIR against the persons/officers involved in the irregularities committee in whole recruitment process in Navyug School Educational Society instead of appointing a Joint Secretary level officer of Government of NCT of Delhi as an Inquiring Authority.

5. It was also brought to the notice of the Committee that the Navyug Schools Educational Society is going to appoint some guest teachers in Navyug Schools against the posts of teachers against the will of the Committee which had already recommended that Navyug School Educational Society should also prepare their plan for recruitment in advance in regard to direct recruitment and

departmental promotion in Navyug Schools so that need of recruiting teachers on contract basis may be restricted to minimum and if need arises, same teachers appointed on contractual basis may not be reappointed to avoid the unpleasant situation (Recommendation No. 5).

6. After deliberations, the Committee decided the following:-

- (i) The Committee should not wait by 31st March, 2012, for the report of the Inquiring Authority which is enquiring into the irregularities/discrepancies in recruitment drives undertaken by Navyug Schools Educational Society and instead go ahead for preparing their Action Taken Report on the basis of the replies submitted by the Ministry of Home Affairs in which regularizing the services of 10 Sc ex-teachers be reiterated;
- (ii) The Ministry of Home Affairs should be asked to furnish the outcome of the Inquiring Authority alongwith the action taken thereon as soon as it is submitted to the Ministry;
- (iii) The Chairman, on behalf of entire Committee, should bring the matter to the notice of Hon'ble Prime Minister through a strongly worded letter conveying the feeling of the entire Committee about the callous attitude of the Ministry of Home Affairs towards the Committee and also request the Hon'ble Prime Minister to provide jobs to all 10 aggrieved SC teachers in Navyug Schools who lost their job without their any fault;
- (iv) The Ministry of Home Affairs should issue direction to the New Delhi Municipal Council to stop immediately the process of appointing guest teachers or appoint the aggrieved teachers for the time being till they are provided prominent jobs; and

- (v) Further, the Committee may meet the Hon'ble Prime Minister to share their views with him on the various matters pertaining to welfare of Scheduled Castes and Scheduled Tribes in near future.

The Committee then adjourned.

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

SECOND SITTING

(26.06.2012)

MINUTES

The Committee sat from 1430 to 1600 hrs. in Committee Room No. 'D', Parliament House Annexe, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

LOK SABHA

2. Shri M. Anandan
3. Shri Bhudeo Choudhary
4. Shri Prem Chand Guddu
5. Dr. M. Jagannath
6. Shri Mohinder Singh Kaypee
7. Shri Arjun Ram Meghwal
8. Shri P. Balaram Naik
9. Shri Ashok Kumar Rawat
10. Shri Bajju Ban Riyan
11. Smt. Rajesh Nandini Singh
12. Dr. Kirit Premjibhai Solanki
13. Shri Lalit Mohan Suklabaidya

RAJYA SABHA

14. Shri Thaawar Chand Gehlot
15. Shri Faggan Singh Kulaste
16. Shri Lalhming Liana
17. Shri D. Raja
18. Shri Ishwar Singh
19. Shri Veer Singh

SECRETARIAT

3. Dr. R.K. Chadha, Joint Secretary
4. Shri Hardev Singh, Director

WITNESSES

MINISTRY OF HOME AFFAIRS

1. Shri R.K. Singh, Home Secretary
2. Shri K.K. Pathak, Joint Secretary (UT)
3. Dr. A.K. Saxena, Director (Delhi)

NEW DELHI MUNICIPAL COUNCIL (NDMC)

1. Ms. Archana Arora, Chairperson
2. Shri D.S. Pandit, Secretary
3. Shri Manoj Sethi, Director

2. At the outset, the Chairman welcomed the representatives of the Ministry of Home Affairs and New Delhi Municipal Council (NDMC).
3. The Committee strongly reiterated their earlier recommendation that the 10 SC ex-teachers of the Navyug Schools should be reinstated at the earliest.
4. The Committee decided to consider the draft Report on "Working of Scheduled Caste Sub Plan" at its next sitting.
5. A verbatim record of the proceedings was kept.

The Committee then adjourned.

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

FOURTH SITTING

(22.08.2012)

MINUTES

The Committee sat from 1500 to 1630 hrs. in Committee Room No. 'A', Parliament House Annexe, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

LOK SABHA

2. Shri M. Anandan
3. Smt. Santosh Chowdhary
4. Shri Prem Chand Guddu
5. Smt. Paramjit Kaur Gulshan
6. Dr. M. Jagannath
7. Shri Mohinder Singh Kaypee
8. Shri Arjun Ram Meghwal
9. Shri Bharat Ram Meghwal
10. Shri P. Balaram Naik
11. Shri Bajju Ban Riyan
12. Smt. Rajesh Nandini Singh
13. Dr. Kirit Premjibhai Solanki
14. Shri Lalit Mohan Suklabaidya
15. Shri Bhausahab Rajaram Wakchaure

RAJYA SABHA

16. Shri Thaawar Chand Gehlot
17. Shri Faggan Singh Kulaste
18. Dr. Bhalchandra Mungekar
19. Shri Ishwar Singh
20. Shri A.V. Swamy

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Shri Hardev Singh, Director
3. Shri Shilpi Chatterjee, Additional Director

WITNESSES

MINISTRY OF HOME AFFAIRS

- 1 Shri K.K. Pathak, Joint Secretary (UT)
- 2 Dr. A.K. Saxena, Director (Delhi)

NEW DELHI MUNICIPAL COUNCIL (NDMC)

1. Ms. Archana Arora, Chairperson
2. Shri D.S. Pandit, Secretary
3. Shri Manoj Sethi, Director

2. At the outset, the Chairman welcomed the representatives of the Ministry of Home Affairs and New Delhi Municipal Council (NDMC).

3. The Committee took up the matter regarding termination of 10 SC ex-teachers of Navyug School Educational Society of NDMC. The representatives of the Ministry of Home Affairs and NDMC briefed the Committee about the current status of the matter and replied to the clarifications sought by the members. The Committee strongly reiterated their earlier recommendation that the Government should take positive steps to reinstate the 10 SC ex-teachers of the Navyug Schools at the earliest. The Committee also decided to recommend to the Government that the 10 SC ex-teachers of the Navyug Schools may be regularized against the backlog vacancies, if any. In case sufficient number of backlog vacancies were not there to accommodate all the ex-teachers, the remaining teachers may be regularized against future vacancies, as and when they arise.

4. Some members desired *inter alia*, that (i) action may be initiated under SCs/STs (Prevention of Atrocities) Act, 1989 against the erring officials responsible for irregularities in the recruitment process of 2005 and 2007 in the Navyug Schools; (ii) reasons for regularization of other categories of persons in the NDMC, etc.
5. A verbatim record of the proceedings was kept.

The Committee then adjourned.

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES
AND SCHEDULED TRIBES
(2012-2013)**

(FIFTEENTH LOK SABHA)

SIXTH SITTING

(17.09.2012)

MINUTES

The Committee sat from 1130 to 1315 hrs. in Committee Room No. '53', Parliament House, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

LOK SABHA

2. Shri M. Anandan
3. Smt. Santosh Chowdhary
4. Smt. Jyoti Dhurve
5. Dr. M. Jagannath
6. Shri Mohinder Singh Kaypee
7. Shri Arjun Ram Meghwal
8. Shri Bharat Ram Meghwal
9. Shri Ashok Kumar Rawat
10. Shri Bajju Ban Riyan
11. Dr. Kirit Premjibhai Solanki
12. Shri Lalit Mohan Suklabaidya

RAJYA SABHA

13. Shri Thaawar Chand Gehlot
14. Shri D. Raja
15. Shri Ishwar Singh

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Shri Hardev Singh, Director
3. Shri S. Chatterjee, Additional Director

WITNESSES

MINISTRY OF POWER

- 1 Shri P. Uma Shankar, Secretary (Power)
- 2 Shri Ashok Lavasa, Additional Secretary
- 3 Shri Devendra Choudhry, Additional Secretary

NTPC LIMITED

Shri Arup Roy Choudhury, CMD, NTPC

2. At the outset, the Chairman welcomed the Members of the Committee. The Committee then considered the draft Action Taken Report on the subject "Termination of 10 SC ex-teachers appointed by Navyug School Educational Society, New Delhi Municipal Council on contract basis during Special Recruitment Drives 2005 and 2007 and adopted the same with some modifications.

(The witnesses were called to)

3. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Power and NTPC on the subject "Reservation for and Employment of Scheduled Castes and Scheduled Tribes in National Thermal Power Corporation Limited (NTPC).

(The witnesses then withdrew)

4. A verbatim record of the proceedings was kept.

The Committee then adjourned.

APPENDIX VI
(Vide Para 4 of Introduction)

**ANALYSIS OF ACTION TAKEN BY THE GOVERNMENT ON THE
RECOMMENDATIONS CONTAINED IN THE THIRTEENTH REPORT
(FIFTEENTH LOK SABHA) OF THE COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND SCHEDULED TRIBES.**

1.	Total number of recommendations	Part II(A) Part II(B)	1-34 10
2.	Recommendations/observations which have been accepted by the Government (<u>vide</u> recommendations at Sl. Nos. Part II B 2, 5 and 9)		
	Number	Part IIB	3
	Percentage to the total		30%
3.	Recommendations/Observations which the Committee do not desire to pursue in view of the Government replies (<u>vide</u> recommendations at Sl. Nos. Part II B 3 and 4)		
	Number	Part IIB	2
	Percentage to the total		20%
4.	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (<u>vide</u> recommendations at Sl. Nos. Part II B 1, 6, 7, 8 and 10)		
	Number	Part IIB	5
	Percentage to the total		50%
5.	Recommendations/Observations in respect of which final replies of the Government have not been received (<u>vide</u> recommendations at Sl. No. 5)		
	Number	Part A	1-34
	Percentage to the total		100%