

COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES

(2009-2010)

(FIFTEENTH LOK SABHA)

SEVENTH REPORT

ON

MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

Action taken by the Government on the recommendations contained in Thirty-sixth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject – “National Commission for Scheduled Castes – Its mandate and achievements – A review of its organisation and working”.

Presented to Lok Sabha on 22.04.2010

Laid in Rajya Sabha on 22.04.2010



LOK SABHA SECRETARIAT
NEW DELHI

April, 2010 /Vaisakha, 1932 (Saka)

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**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND SCHEDULED TRIBES
(2009-2010)**

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

Lok Sabha

2. Shri M. Anandan
3. Shri Tara Chand Bhagora
4. Shri S.K. Bwiswmuthiary
5. Shri Harishchandra Chavan
6. Shri Bhudeo Choudhary
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19. Shri Sajjan Singh Verma
20. Shri Bhausahab Rajaram Wakchaure

Rajya Sabha

21. Shri Krishan Lal Balmiki*
22. Shri Lalhming Liana
23. Shri Mukut Mithi
24. Shri D. Raja
25. Shri Praveen Rashtrapal
26. Shri Thomas Sangma
27. Shri Veer Singh
28. Ms. Sushila Tiriya
29. Shri Brij Bhushan Tiwari
30. Miss Anusuiya Uikey

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchy, Director
3. Shri M.L.K.Raja, Deputy Secretary

* Passed away on 21.04.2010 vide Rajya Sabha Notification NO.RS.10/2010-T, dated 21.04.2010.

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 Seventh Report (Fifteenth Lok Sabha) on action taken by the Government on the recommendations contained in their Thirty-sixth Report (Fourteenth Lok Sabha) on the Ministry of Social Justice & Empowerment regarding "National Commission for Scheduled Castes – Its mandate and achievements – A review of its organisation and working".

2. The draft Report was considered and adopted by the Committee on the 8th April, 2010 (Appendix-I).

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 Thirty-sixth Report (Fourteenth Lok Sabha) of the Committee is given in Appendix-II. It would be observed therefrom that out of 22 recommendations made in the report, 10 recommendations i.e. 45 per cent have been accepted by the Government. The Committee do not desire to pursue 8 recommendations i.e. 36 per cent of the total recommendations in view of the replies of the Government. There are 4 recommendations i.e. 18 per cent in respect of which replies of the Government have not been accepted by the Committee and require further reiteration.

New Delhi;
April, 2010
Vaisakha, 1932(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 Thirty-sixth Report (Fourteenth Lok Sabha) on the Ministry of Social Justice & Empowerment regarding “National Commission for Scheduled Castes – Its mandate and achievements – A review of its organisation and working”.

1.2 The Thirty-sixth Report was presented to Lok Sabha on 18th February, 2009. It contained 22 recommendations/observations. Replies of the Government in respect of all these recommendations/observations have been examined and may be categorised as under:-

- (i) Recommendations/Observations which have been accepted by the Government (Sl. Nos. 1,2, 5,7,9,11,15,17,18 and 19).
- (ii) Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from the Government (Sl. Nos. 4, 8,10,12, 16, 20, 21 and 22).
- (iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (Sl. Nos. 3, 6, 13 and 14).
- (iv) Recommendations/Observations in respect of which final replies of the Government have not been received (Nil).

1.3 The Committee will now deal with the Action Taken by the Government on some of the recommendations which need reiteration or comments.

STRENGTH OF THE NATIONAL COMMISSION ON SCHEDULED CASTES**Recommendation (Sl. No. 3, Para No. 1.18)**

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

Reply of the Government

1.5 Article 338 (2) of the Constitution provides that "subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-

Chairperson and three other Members...”. The above provision of the Constitution regarding strength of the Commission seems adequate.

Comments of the Committee

1.6 The Committee, after weighing the importance and quantum of work being dealt with by the NCSC, had recommended for appropriate increase in the membership of the Commission. The Committee felt that the duties assigned to the Commission are extremely demanding and hence emphasised on the necessity to enhance the strength of the Commission accordingly. The functions *inter-alia* include the Commission acting as a quasi-judicial authority while investigating cases referred to in sub-clauses (a) and (b) of Clause-5, to participate and advise on the planning process of socio-economic development of the SCs and to evaluate the progress of their development under the Union and any State. However, the Committee are dismayed about the manner in which reply is given by the Government by just mentioning about the Constitutional provisions, without taking into account the quantum and importance of each of the duties and responsibilities assigned to the Commission and the resultant enormity of the work volume. While reiterating their earlier recommendation, the Committee further recommend that the number of members of the Commission should be increased from the present five to atleast seven.

PARTICIPATION OF NCSC IN PLANNING PROCESS

Recommendation (Sl. No. 4, Para No. 1.19)

1.7 The Committee note that Shri Fakirbhai Vaghela, Vice Chairman, NCSC while submitting the First Special Report (01.04.2006 to 30.09.2006) to His Excellency President of India in his DO letter, dated February, 2007 has *inter-alia* mentioned that one mandate of

Article 338 (5)(c) of the Constitution, that it is the duty of the Commission to participate and advise on the planning process of socio-economic development of SCs, has not been translated into practice by making institutional arrangement in the planning process of the Government. He had, therefore, requested that Chairman of NCSC needs to be made a member of the Planning Commission or, if not possible, then at least a permanent invitee to the Planning Commission. The Secretary, Ministry of Social Justice and Empowerment had, however, refuted the claim made by NCSC by saying that the National Commission are associated in various Committees, working groups or other such bodies set up by the Planning Commission. The Committee feel that there is an urgent need to bring out a formula by which participation of the NCSC in the planning and evaluation process for socio-economic development of SCs at the Central and State levels is assured. If required, the Committee would like the Government to initiate action to amend Article 338 of the Constitution so that the Chairman of the Commission may have an effective role in planning and evaluation process at the Central and State levels.

Reply of the Government

1.8 A representative of the National Commission for Scheduled Castes (NCSC) was kept as one of the members of the XI Plan Working Group on Empowerment of SCs. Besides, the Joint Secretary, NCSC, is also invited by the Planning Commission to meetings of State-wise Working Groups which take place to finalise the Annual Plans under SCSP of various States. In addition, the Planning Commission has been requested in July, 2009 to include the Chairperson, National Commission for Scheduled Castes (NCSC) in the National Development Council (NDC) either as a Member or a Special Invitee. The Planning Commission has also been requested to associate a representative of NCSC in Annual Plan discussions of Central Ministries, which have a key role in SC development e.g. Ministries of Women & Child Development, Human Resource Development, Health & Family Welfare,

Rural Development, HUPA, Department of Financial Services, Labour & Employment and Agriculture etc. A copy of D.O. letter dated 24.7.2009 sent by Secretary (SJ&E) to Secretary, Planning Commission in the matter is enclosed.

Comments of the Committee

1.9 The Committee find that some mechanisms exist at certain levels for participation of NCSC in the planning process. They appreciate the steps initiated by the Ministry by writing to the Planning Commission to include the Chairperson, NCSC in the National Developmental Council as a member or a Special Invitee and to associate a representative of the Commission in Annual Plan discussions of Central Ministries which have a key role in SC development. The Committee desire that the Ministry should pursue the matter in right earnest with the Planning Commission and ensure proper representation of NCSC in the planning process. The Committee should be apprised of the developments in this regard.

CREATION AND UPGRADATION OF REGIONAL OFFICES

Recommendation (Sl. No. 5, Para No. 1.24)

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

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

Reply of the Government

1.11 A revised proposal for seven new regional offices and upgradation of four sub-offices, with necessary details included in the light of the 6th Central Pay Commission, has been received in April, 2009, and is being processed in consultation with the Department of Expenditure.

Comments of the Committee

1.12 The Committee note that the proposals for creating seven new regional offices as well as upgradation of four sub-offices are being processed by the Government. The Committee expect that the same are processed fast and implemented at the earliest, keeping a time schedule for such accomplishment. Meanwhile, the details regarding the seven new regional offices/upgradation of four sub-offices should be furnished to the Committee. Keeping in mind the large population of SCs in the state of

Madhya Pradesh, the Committee recommend that a new regional office may be opened in the state, if not already included in the new seven regional offices proposed to be opened.

INDEPENDENT FUNCTIONING OF NCSC

Recommendation (Sl. No. 6, Para No. 1.30)

1.13 The Committee note that Commission has powers of the Ministry of the Central Government under the Delegation of Financial Powers Rules, 1978, the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil Services (Leave) Rules 1972; the Central Services (Joining Time) Rule, 1979; the General Provident Fund (Central Services) Rules, 1960, Contributory Provident Fund and similar other Rules. The Committee, however, regret to observe that the Commission does not have full autonomy in regard to financial and administrative matters and has no powers in matters relating to creation of posts, reappropriation of funds from one head to another; purchase of vehicles; and permitting officers of the Commission to participate in Seminars, Conferences or Training abroad. The Committee are also dismayed by the fact that the Commission, which has been given statutory status and powers of the Ministry of Central Government in certain matters, has to project its requirements to the Ministry of Social Justice and Empowerment for provision to be made in Budget Estimates. The Committee regret to observe that the proposal for separate Demands for Grants for NCSC has also not been agreed to by the Ministry of Finance (Department of Expenditure). The Committee wonder as to why the Ministry of Finance (Department of Expenditure) have objected to proposals for separate Demands for Grants for the Commission and allowed to have only Budget Head within the Demands for Grants for Ministry of Social Justice and Empowerment. The Committee are distressed that even the statutory status does not entitle NCSC to have a separate entity. The Committee are of the firm opinion that when it was decided to bifurcate NCSCST, it was

never envisaged that NCSC would function as a part of the Ministry of Social Justice and Empowerment. If it was so, there was no need to bifurcate the erstwhile Commission into two separate statutory bodies. It could have continued to function as a non-statutory body as earlier. NCSC would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters.

Reply of the Government

1.14 The functions, duties and powers of the National Commission for Scheduled Castes (NCSC) have been laid down under Clauses (5) to (9) of Art. 338 of the Constitution. Further, the Government of India have conferred upon the Chairman, NCSC the powers of the Ministry/Department of Central Government under the Delegation of Financial Rules (DFPR), 1978 etc. The issue of separate Demand for Grants for the Commission was taken up by Secretary, NCSC with the Secretary, Department of Expenditure, Ministry of Finance vide his D.O. letter dated 4.12.2006 in pursuance of the advice of the Planning Commission. However, Secretary (Expenditure) vide D.O. letter dated 15.1.2007 addressed to Secretary, NCSC did not agree to the request. A copy of D.O. letter dated 15.1.2007 which spells out the views of the Department of Expenditure in the matter, is enclosed.

Comments of the Committee

1.15 The Committee observe from the reply of the Government that the Chairman, NCSC has been conferred with the powers of Ministry/Department of Central Government under the Delegation of Financial Rules (DFPR), 1978 etc. In regard to separate Demands for Grants for NCSC, it has been stated that the Commission's expenditure being reflected in the Demands for Grants of the Ministry of Social Justice & Empowerment is on par with the expenditure provision of Finance Commission which forms part of Demands for Grants of Ministry of Finance or the expenditure

provision of Human Rights Commission which forms part of the Demands for Grants of Ministry of Home Affairs. The Constitutional responsibility conferred upon the NCSC provided under the Article 338(5), 338(6) and 338(7) demands autonomy of its functioning from the Government. Since the Commission has to assess and report on the functioning of various Executive functionaries vis-à-vis the implementation of various welfare measures etc., there arises a necessity for complete autonomy including financial autonomy and a separate demand for grants. It is seen that unlike the Finance Commission there is no Constitutional provision conferring upon the NCSC the financial independence by way of treating its expenditure as “Charged”. Therefore, the Committee are of the view that necessary steps in this regard be initiated by the Government to insert a provision in the Constitution.

SEPARATE DEMANDS FOR GRANTS

Recommendation (Sl. No. 7, Para No. 1.31)

1.16 After having considered all the facts, the Committee are of the strong view that only limited administrative and financial powers have been given to the NCSC by making it a part of Ministry of Social Justice and Empowerment. The Committee, therefore, recommend that full administrative and financial powers should be given to NCSC so that it may not remain dependent on the Ministry of Social Justice and Empowerment for every piece of proposal having financial implications. The Committee are of the view that NCSC is an independent statutory body and it has every right to have its own Demand for Grants in a realistic manner. The Committee would like to be apprised of the reasons adduced by the Ministry of Finance for rejecting the proposal for separate Demand for Grants for NCSC. Keeping in view the magnitude of the functions and duties assigned to NCSC, the Committee also recommend

that a fresh proposal should be sent to Ministry of Finance for creating a separate Demand for Grants for NCSC on the lines of other constitutional bodies such as Election Commission, Union Public Service Commission, etc. as it is essential for the independent functioning of the Commission. The Committee may also be apprised of the outcome within three months.

Reply of the Government

1.17 The issue of separate Demand for Grants for the Commission was taken up by Secretary, NCSC, with Secretary, Department of Expenditure, Ministry of Finance vide his D.O. letter dated 4.12.2006. However, Secretary, Department of Expenditure vide his D.O. letter dated 15.1.2007 did not agree to the request. A copy of the above D.O. letter dated 15.1.2007, which spells out the Expenditure Department's reasons for not agreeing to the proposal, is enclosed. Secretary, NCSC vide his D.O. letter dated 15.6.2009 sent fresh proposal to Secretary, Department of Expenditure for creation of separate Demand for Grants for the Commission. In addition to the above, the Ministry has also referred the matter to the Ministry of Finance.

Comments of the Committee

1.18 The Committee expect the Ministry to pursue the matter hard with the Ministry of Finance, so as to bring in a separate Demand for Grants for the Commission in the Budgetary Demands at the earliest.

DELAY IN FILLING UP OF VACANCIES

Recommendation (Sl. No. 9, Para No. 1.43)

1.19 The then Chairman, NCSC had expressed his concern for not creating the posts in the personnel section of the Chairman and Vice Chairman in its first Annual Report (2004-05). It had also been mentioned that the Secretariat of the Commission has not been functioning with full strength even after bifurcation of the erstwhile NCSC and that several posts were

lying vacant against the sanctioned posts. The Committee, however, note that the Ministry have since created ten posts in various grades in the office of Chairman, NCSC on co-terminus basis and that out of 245 sanctioned posts of all the officers and staff, the number of filled up posts as on 01.10.2007 was stated to be 196. During evidence, the Secretary, Ministry of Social Justice and Empowerment had submitted that the Commission was facing problems in filling up certain posts like LDC, Assistant Director in Research, DIG, Law Officer, Librarian, Assistant Director (Programming) and Assistant Public Relations Officer. The Committee are constrained to point out that delay in filling up all these posts is due to the multiplicity of cadre controlling authorities and that for certain posts the Commission has to be fully dependent on other Ministries. Had the Commission been given an independent mandate to choose its own personnel, such problems in filling up posts would not have occurred. The Committee are distressed that the post of LDC cannot be filled up just because it is a dying cadre whereas the work profile in Commission requires their service according to submission made during evidence. Similarly, the post of DIG is lying vacant as Ministry of Home Affairs has not provided the incumbent for the post. Since the post of DIG has been created in the Commission with a specific purpose, the Committee strongly recommend that the Government should urgently fill up this vacant post. The Committee also recommend that other vacant posts like that of Law Officer, Assistant Director (Research), Assistant Director (Programming) etc. should also be filled up at the earliest and in case of isolated posts, recruitment rules should be framed within a stipulated time. The Committee would also like to know the outcome of the assessment made by Staff Inspection Unit (SIU) of Department of Expenditure regarding staff strength of the Commission and the future course of action proposed to be taken by the Government in this regard.

Reply of the Government

1.20 Efforts made to fill up key posts mentioned in para 1.43 are as follows –

A. DIG

1.21 The post of DIG in the Commission fell vacant on 1.11.2005. According to the provisions of the relevant Recruitment Rules, officers of the Indian Police Service (IPS) holding analogous posts on a regular basis or who are approved for appointment as DIG, are eligible for appointment on deputation basis for the post of DIG in NCSC. Accordingly, the Ministry wrote to the Ministry of Home Affairs on 30.1.2006 to send a panel of suitable officers for the post. In addition, the Ministry also sent a request on 10.8.2007 to all State Chief Secretaries to forward names of suitable IPS officers. However, only 15 States/UT Administrations responded to this Ministry's request all stating that they did not have any officers to recommend for the post. The Ministry of Home Affairs, after regular follow-up, sent the name of one IPS officer on 14.8.2007, which was conveyed to NCSC. However, NCSC vide its letter dated 12.9.2007 insisted for a panel consisting of 3 names. The matter was again taken up with the Ministry of Home Affairs. The Ministry also sent another request on 11.1.2008 to Chief Secretaries of State Governments/UT Administrations, who had not responded to Ministry's earlier request 10.7.2007. However, there was no positive response from any State/UT. The matter was also taken up at the level of the Hon'ble Minister for Social Justice & Empowerment with the Ministry of Home Affairs on 26.3.2008. Thereafter, the Ministry of Home Affairs, vide its communication dated 17.7.2008, sent a panel of two IPS officers. The panel so received was forwarded to NCSC, who vide its letter dated 27.8.2008 requested for one more name from the Ministry of Home Affairs. Further, NCSC vide its letter dated 10.12.2008 requested for a panel of IPS officers from the 1994 batch. Accordingly, the Ministry requested the Ministry of Home Affairs on 5.1.2009 to send a fresh panel. The

Ministry of Home Affairs has requested Chief Secretaries of States/UTs, vide its communication dated 29.5.2009, to recommend names of eligible and willing IPS officers for the above post. The matter is being pursued.

B. Law Officer

1.22 For filling up the post of Law Officer, a proposal was sent by the NCSC to the Union Public Service Commission (UPSC). However, UPSC informed NCSC vide its letter dated 19.3.2009 that none of the candidates who had applied for the post was found eligible for consideration for selection/appointment to this post and as such, the selection process has been rendered infructuous. The UPSC accordingly advised the NCSC to take further necessary action to fill up the post as per provisions of the Recruitment Rules. NSCS has informed that fresh exercise will be undertaken after amendment of the Recruitment Rules as per the recommendations of the 6th Central Pay Commission, for which necessary proposal has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009.

C. Librarian

1.23 A proposal to fill up the post of Librarian was sent to the Union Public Service Commission (UPSC) by NCSC vide its letter dated 22.7.2008. However, UPSC pointed out that the Recruitment Rules (RRs) for the post, notified in 1984, become unworkable and accordingly, advised that the existing RRs may be repealed/amended/replaced suitably by fresh RRs. Proposal for amendment of RRs has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009. After concurrence of DOPT, UPSC and vetting by the Legislative Department, the amended RRs would be notified and action would be taken to fill up the post.

D. Assistant Director (Programming)

1.24 Proposal for framing of Recruitment Rules (RRs) has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009. After concurrence of DOPT, UPSC and vetting by the Legislative Department, the RRs would be notified and action would be taken to fill up the post.

E. Assistant Public Relation Officer

1.25 NCSC is drafting Recruitment Rules (RRs) for the post. Once the draft RRs are received, they will be finalised in consultation with DOPT, UPSC and Law Ministry after which action to fill up the post would be taken after notification of the RRs.

F. Assistant Director (Research)

1.26 There is no post of Assistant Director (Research) in the Commission. As regards the outcome of the assessment made by the Staff Inspection Unit (SIU) of the Department of Expenditure, the Commission has informed that the process for the work study has been initiated and the report would be made available after completion of the study.

Comments of the Committee

1.27 The Committee observe that apart from the poor response from the Ministry of Home Affairs and State Governments, there has been negligence on the part of the NCSC as well as the Ministry by not initiating the process of filling up of vacancies in time, thereby delaying the filling up of such posts for years. For instance, the post of DIG fell vacant on 01-11-2005. However, the Ministry wrote to the Ministry of Home Affairs only on 30-01-2006 to send a panel of suitable officers for the post. The Commission should have initiated the process of filling up of the vacancy much before

the date of arising of the vacancy. Further delay occurred because of delayed response by the Home Ministry and the State Governments. From the poor response received from officers for the post of DIG, it is presumed that it is not an attractive post. The Committee, therefore, feel that this post needs to be made more attractive. The Committee recommend that the post may be made more attractive by giving special allowances/facilities. Further, they recommend that officers from the para-military forces/Central Police Services may also be considered for post. Also, they observe that till now even the Recruitment Rules have not been framed for certain posts. The Committee take strong exception to slackness that has been shown in filling up the posts and expect all the vacant posts to be filled up at the earliest. The outcome of work study of Staff Inspection Unit (SIU) should also be made available to the Committee.

DELAY IN LAYING OF NCSC REPORT BEFORE PARLIAMENT

Recommendation (Sl. No. 12, Para No. 2.8)

1.28 The Committee further note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had submitted seven regular and one special report to the President during the period of about 12 years out of which six Annual Reports and the Special report had been laid in the Parliament. However, nothing has been said with regard to laying of the 7th Report submitted to the President on 17.02.2004. The Committee should be apprised of the fate of that report. It has also been stated that the Commission had submitted three special reports in 2000 concerning State Governments of Bihar, Uttar Pradesh and Madhya Pradesh. After bifurcation of NCSCST, the National Commission for

Scheduled Castes has submitted one Annual Report for the year 2004-05 in July, 2006 and one Special Report for the period 01.04.2006 to 30.09.2006.

Reply of the Government

1.29 Seventh Annual Report of erstwhile National Commission for Scheduled Castes and Scheduled Tribes was laid in Parliament on 29.11.2007 in Lok Sabha and on 3.12.2007 in Rajya Sabha. So far as the other 3 Special Reports are concerned, these relate to issues concerning particular State Governments. These Reports have been sent to the concerned States for taking action as per clause (7) of Article 338 of the Constitution. First Annual Report of the National Commission for Scheduled Castes for the year of 2004-05 submitted in July, 2006 was sent to concerned Ministries for Action Taken Reports on portions concerning them. The Report, along with explanatory memorandum, would be laid in the next session of Parliament. Similarly, First Special Report of the Commission, for the period 01.04.2006 to 30.9.2006 received in February, 2007 was sent to the Ministries concerned for Action Taken Reports on the recommendations related to them. The inputs received from them are being compiled and the Special Report of the Commission will be laid in the Parliament soon.

Comments of the Committee

1.30 The Committee, from the reply of the Ministry, note that the first Annual Report of the National Commission for Scheduled Castes(NCSC) for the year 2004-2005, which was presented to the President in July, 2006 has not yet been laid on the Table of the Houses of the Parliament. Further, they note that irrespective of the written assurance given by the Ministry (in the Ministry's Action Taken Notes on recommendations contained in the 36th Report of the Committee) that the Report of NCSC would be laid during the next Session of Parliament but the same has not been done. Therefore, the

Committee urge the Ministry to take all possible efforts and lay the Commission's Report alongwith the Action Taken Reports of the concerned Ministries during the Budget Session 2010.

LAYING OF AND DISCUSSION ON THE REPORTS OF NCSC

Recommendation (Sl. No. 13, Para No. 2.9)

1.31 The Committee regret that the first report (2004-05) of NCSC which was submitted in July, 2006 has not been laid before each House of Parliament since it has been stated that the report was circulated to different Ministries only in November, 2006 and that the response from some Ministries is still awaited. The Committee are pained to note that Ministry of Human Resource Development and Ministry of Panchayati Raj are taking long time in furnishing the comments on the report of NCSC leading to delay in laying of report in Parliament. The Secretary of the Ministry had also submitted before the Committee that the average time taken before giving action taken report for laying the same in Parliament is two years since they have to go to the concerned Ministries/PSUs/State Governments for their comments/views. The Committee, however, do not find such reasoning to be convincing in this era of rapid communication technology. The Committee are of strong opinion that due to absence of a fixed time limit for the submission of report to the Parliament after it has been presented to the President, the Ministry of Social Justice and Empowerment cannot force other Ministries/ Departments to expedite their views/opinion alongwith memoranda of action taken on the recommendations on the report. The Committee are also of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCSC should not only submit its report annually but the Ministry should

also take timely action to get the reports presented in the Parliament in a time bound manner. The Committee, therefore, strongly recommend that action to amend clause (6) and (7) of Article 338 of the Constitution should be initiated so that a time limit is fixed for presenting the reports of the NCSC in the Parliament. The Committee also recommend that the Ministry should initiate action for holding discussion on the report in Parliament by way of a Government Motion. The Committee also desire that the Government should impress upon the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament. The Committee should also be apprised about the position relating to the annual reports for the years 2005-06 and 2006-07 and desire that these reports should be presented to the President and laid in Parliament expeditiously.

Reply of the Government

1.32 While every effort will be made to obtain Annual Reports from the National Commission for Scheduled Castes (NCSC) and lay them in Parliament, as promptly as possible, amendment in the Constitution is, on the whole, not considered necessary. NCSC has also not favoured acceptance of the recommendation. As regards the recommendation of the Committee for holding discussion on the report in Parliament by way of a Government Motion, the issue will be examined in consultation with the Ministry of Parliamentary Affairs and stand of the Government will be communicated to the Committee at an early date. Further, the Ministry of Parliamentary Affairs will also be requested to take action on the recommendation to impress upon the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament.

Comments of the Committee

1.33 The inordinate delay in the laying of the Reports of the NCSC before the Parliament along with the Action Taken Replies by the Ministry speaks enough about the Ministry's efforts to do the same 'promptly'. Moreover, defining a time limit, even if

a liberal one, in the opinion of the Committee, would discipline the organizations concerned in laying the Report within a reasonable period of time. In view of the above, the Committee re-iterate their recommendation that a definite time period may be prescribed for the same by amending clause(6) and (7) of Article 338 of the Constitution. Further, the Committee recommend that responsibility for the delay in laying of the Reports in the Parliament should be fixed on the officials concerned and appropriate action should be initiated against them. Also, the Committee have not yet received Government's reply in regard to the stand of the Government vis-à-vis holding discussions on the NCSC's reports in Parliament by way of a Government Motion.

POWER TO ISSUE INTERIM ORDERS BY NCSC

Recommendation (Sl. No. 14, Para No. 2.19)

1.34 The Committee note that the National Commission for Scheduled Castes has been vested with the duty to *inter alia* investigate all matters relating to the safeguards provided to SCs and to enquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to NCSC under clause (8) of the Article 338 of the Constitution. The Committee, however, note that the role of NCSC as a civil court is limited to that of summoning and enforcing attendance of any person, call for production of any document and examine evidence on affidavits but has no judicial power as other civil courts have. The Committee also note that the recommendations made by the Commission are referred to the concerned Central Ministries/Departments/State Governments for taking appropriate action on the recommendations but these are not binding upon them to implement those

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

Reply of the Government

1.35 Under Article 338(8) of the Constitution, the National Commission for Scheduled Castes (NCSC) has already been given powers of a Civil Court to the extent necessary to perform its role of enquiry/investigation as an Ombudsman. Also, the existing provisions of

the Constitution seem adequate to ensure the Commission's independence and effectiveness.

Comments of the Committee

1.36 In the opinion of the Committee, the NCSC has been made toothless and ineffective by not empowering it with the authority to issue binding orders/judgments. The Committee feel that this is a deliberate strategy not to empower the Commission to issue orders on its inquiry/investigation. Therefore, the Committee reiterate their recommendation that necessary steps be initiated to empower the NCSC accordingly.

Recommendation (Sl. No. 17, Para No. 3.9)

1.37 The Committee also note that the Commission has conducted various State level review meetings in the last three years. The Committee are deeply anguished that State Governments are not responding to the minutes of the review meetings circulated to them. The Committee strongly recommend that the Commission should pursue with State Governments for taking appropriate action at the earliest. In case they still persist with indifferent attitude, it is advised that Government should initiate action to amend the Constitution so that State Governments are made accountable for their lapses in regard to matters concerning welfare of Scheduled Castes people.

Reply of the Government

1.38 If the Commission brings any cases of non-response by State Governments to the Ministry's notice, the Ministry will vigorously take up the matter with the State Government concerned.

Comments of the Committee

1.39 The Committee observe from the reply of the Government that the NCSC has not brought any of such non-responsive acts of the State Governments to the notice of the

Ministry. Hence, they advise the NCSC to bring such instances to the immediate notice of the Ministry, which should take up the matter with the concerned States earnestly. Also, they reiterate their recommendation that the Union Government may consider amending the Constitution in order to make the State Governments accountable and responsive.

IDENTIFYING AREAS OF INTEREST AND COMPILING OBJECTIONABLE MATERIAL IN RELIGIOUS BOOKS

Recommendation (Sl. No. 18, Para No. 3.10)

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

Reply of the Government

1.41 The National Commission for Scheduled Castes (NCSC) has intimated that the report of the Committee is being placed before the Commission in the near future.

Comments of the Committee

1.42 The Committee note that the Report of the Committee constituted by the Commission (NCSC) was submitted to the Commission during February, 2007. However, the Committee are extremely concerned about the fact that the NCSC Committee's Report has not been taken up for consideration by the NCSC even after lapse of three years. This, the Committee consider, is deliberate apathy shown by the Commission in the performance of their responsibilities. The Committee expect the

Commission to take up the Report immediately for consideration and further action within a clear time frame.

Recommendation (Sl. No. 20, Para No. 4.5)

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

Reply of the Government

1.44 NCSC has informed that it is taking action on the recommendations concerning the Commission. The Ministry of Social Justice & Empowerment has been releasing grants-in-aid to the Non-Governmental Organizations (NGOs) under the Scheme of Grant-in-aid to Voluntary Organizations working for Scheduled Castes. Details of grants-in-aid released to NGOs during the last 3 years under the scheme are at Annexure. As regards the credibility

of the Voluntary Organizations/NGOs, central assistance is released on the basis of the recommendations of State Governments and the periodical verification/inspection reports by their officers.

Comments of the Committee

1.45 The Committee note that the Ministry in their reply have stated that NCSC had informed them that it was taking action on the Committee's recommendations concerning the Commission. A detailed note about the actions that are being taken by the NCSC in this regard should be made available to the Committee within one month of presentation of this Report to the Parliament. Further, the Committee observe that the Ministry have not responded on the recommendation that NCSC should examine whether the fund granted to NGOs during the last three years had actually been incurred for the purpose for which it had been granted and whether the same had resulted in improvement in the lives of Scheduled Castes. The Committee, after considered thought on the need for verification whether the allotted money and its benefits have actually reached the targeted people, had recommended on the need for such verification. The Ministry's response, the Committee feel, conveys lack of seriousness in their approach towards welfare of the oppressed people. They, therefore, desire that the Ministry to give a detailed note on the procedure, mechanism and institutions involved in the process of decision, disbursement and utilization of funds and evaluation of utilization of such funds. They further recommend that in case there exists no mechanism by which the Ministry can evaluate the outcomes, the Ministry may initiate steps to create such a mechanism as early as possible. Also, they observe from the data furnished on Grants-in-aid released to NGOs during the preceding three years that number of beneficiaries corresponding to many NGOs has been shown as 'nil'. Further, the Committee observe that the addresses of the NGOs are not given, in

the absence of which it will be difficult to know the exact location of such NGOs to whom grants have been disbursed. The Committee demand an explanation from the Ministry as to why Grants are sanctioned to NGOs when they are not able to show even a single beneficiary out of granted money spent and whether any action has been initiated against such non-performers. The Committee also recommend that strong action against the people who are running the fraudulent NGOs should be taken, including blacklisting them and stopping further disbursement of grants.

Recommendation (Sl. No. 22, Para No. 4.11)

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

Reply of the Government

1.47 The formulation and implementation of Scheduled Castes Sub Plan (SCSP) by Central Ministries and Departments is reviewed by the Planning Commission and this Ministry. The Planning Commission, in December 2006, have issued detailed guidelines to the Central Ministries/Departments for formulation, implementation and monitoring of the SCSP, to be followed strictly in preparation of their Annual Plan. These guidelines, inter alia, provide earmarking of funds under SCSP in proportion to SCs population and placing the same under a separate budget head (789). The specific matter regarding opening of separate budget head was again taken up by the Minister, SJ&E, with the Finance Minister vide letter dated 19.9.2008, with the request to issue necessary instructions to all Ministries/Departments to ensure that at least from the year 2009-10, an appropriate portion of Plan Budget of every

Ministry/Department is invariably shown under budget head 789. The Deputy Chairman, Planning Commission was also requested vide letter dated 19.9.2008 to address all the Ministries in this regard to ensure that the SCSP outlays are reflected under the budget head 789, as part of Annual Plan/Budget exercise for 2009-10. The Department of Economic Affairs vide its letter No. 2 (26)-B(S)/2007 dated 8.12.2008, has asked all Ministries to ensure at the time of finalization of Plan outlay of BE 2009-10 that SCSP allocations are shown distinctly under the Minor Head 789.

Comments of the Committee

1.48 The Committee note that the Department of Economic Affairs had asked all the Ministries to ensure at the time of finalisation of Plan outlay of BE 2009-10 that SCSP allocations were shown distinctly under the Minor Head 789. The Committee desire to be apprised as to whether the Ministries have actually followed the instruction and provided for SCSP under the Minor Head, and if not, action taken by the Ministry in this regard. The same may be communicated to the Committee within a month's time from the date of presentation of this Report in the Parliament.

CHAPTER – II**RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT****Recommendation (Sl. No. 1, Para No. 1.16)**

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

Reply of the Government

2.2 The above para is factual and needs no comments.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 2, Para No. 1.17)

2.3 The Committee note that according to the National Commission for Scheduled Castes Chairperson, Vice-Chairperson and Members (Condition of Service and Tenure) Rules, 2004, the Members of the Commission are enjoying the status of Secretary to the Government of India. The Chairperson and the Vice-Chairperson have been conferred the status of Cabinet Minister and Minister of State, respectively. The Committee note that there is no deviation in regard to the functioning of NCSC from that of erstwhile NCSCST and it has been vested with adequate powers to take effective measures to safeguard the interest of Scheduled Castes under Article 338 of the Constitution. The functions, duties and powers of the NCSC *inter-alia* include investigation and monitoring of all matters relating to safeguards provided for the Scheduled Castes under the Constitution, or under any other law or any order of the Government and to evaluate the safeguard, to enquire into specific complaints regarding deprivation of rights provided under the Constitution, to present to the President annual reports upon working of these safeguards, to make recommendations as to the measures that should be taken by the Union or any State for protection, welfare and socio-economic development of the SCs as well as other functions as the President may by rule specify.

Reply of the Government

2.4 The above para is factual and needs no comments.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 5, Para No. 1.24)

2.5 The Committee note that the National Commission for Scheduled Castes functions from its headquarters located at New Delhi and from 12 State Offices located at Agartala, Thiruvananthapuram, Ahmedabad, Kolkata, Bangalore, Chandigarh, Lucknow, Guwahati, Chennai, Hyderabad, Patna and Pune. The Committee also note that there are four Wings at the headquarters of NCSC viz. Administration and Coordination Wing; Service Safeguards Wing; Atrocities and Protection of Civil Rights Wing; and Economic and Social Development Wing. The Committee further note that Regional Offices of the Commission keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Castes in the respective States/UTs administrations for evaluation and assessment of the working of various development programmes and their impact on ameliorating the socio-economic condition of SCs and also bring matters to the notice of the concerned State Government for taking remedial measures. The Committee also note that a proposal for creating eight new Regional Offices and upgradation of four Regional Offices of the Commission is under consideration of the Government. The Committee are of the opinion that in the present era of rapid economic development, a good number of Scheduled Castes are still leading a miserable life either due to lack of facilities/welfare schemes not reaching them or because of atrocities perpetrated against them. The Committee, therefore, recommend that action on the proposal for creating eight new Regional Offices and upgradation of existing Regional Offices should be taken up on a priority basis. The Committee also recommend that new Regional Offices should be established in such a way that these can cover every nook and corner of the country and staff posted therein should be well versed with the problems of SCs and the relevant laws in force for their overall development.

Reply of the Government

2.6 A revised proposal for seven new regional offices and upgradation of four sub-offices, with necessary details included in the light of the 6th Central Pay Commission, has been received in April, 2009, and is being processed in consultation with the Department of Expenditure.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

2.7 Please see Para No. 1.12 of Chapter – I.

Recommendation (Sl. No. 7, Para No. 1.31)

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

Reply of the Government

2.9 The issue of separate Demand for Grants for the Commission was taken up by Secretary, NCSC, with Secretary, Department of Expenditure, Ministry of Finance vide his d.o. letter dated 4.12.2006. However, Secretary, Department of Expenditure vide his d.o. letter dated 15.1.2007 did not agree to the request. A copy of the above d.o. letter dated 15.1.2007, which spells out the Expenditure Department's reasons for not agreeing to the proposal, is enclosed. Secretary, NCSC vide his d.o. letter dated 15.6.2009 sent fresh proposal to Secretary, Department of Expenditure for creation of separate Demand for Grants for the Commission. In addition to the above, the Ministry has also referred the matter to the Ministry of Finance.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

2.10 Please see Para No. 1.18 of Chapter – I.

Recommendation (Sl. No. 9, Para No. 1.43)

2.11 The then Chairman, NCSC had expressed his concern for not creating the posts in the personnel section of the Chairman and Vice Chairman in its first Annual Report (2004-05). It had also been mentioned that the Secretariat of the Commission has not been functioning with full strength even after bifurcation of the erstwhile NCSC and that several posts were lying vacant against the sanctioned posts. The Committee, however, note that the Ministry have since created ten posts in various grades in the office of Chairman, NCSC on co-terminus basis and that out of 245 sanctioned posts of all the officers and staff, the number of filled up posts as on 01.10.2007 was stated to be 196. During evidence, the Secretary, Ministry of Social Justice and Empowerment had submitted that the Commission was facing problems in filling up certain posts like LDC, Assistant Director in Research, DIG, Law Officer,

Librarian, Assistant Director (Programming) and Assistant Public Relations Officer. The Committee are constrained to point out that delay in filling up all these posts is due to the multiplicity of cadre controlling authorities and that for certain posts the Commission has to be fully dependent on other Ministries. Had the Commission been given an independent mandate to choose its own personnel, such problems in filling up posts would not have occurred. The Committee are distressed that the post of LDC cannot be filled up just because it is a dying cadre whereas the work profile in Commission requires their service according to submission made during evidence. Similarly, the post of DIG is lying vacant as Ministry of Home Affairs has not provided the incumbent for the post. Since the post of DIG has been created in the Commission with a specific purpose, the Committee strongly recommend that the Government should urgently fill up this vacant post. The Committee also recommend that other vacant posts like that of Law Officer, Assistant Director (Research), Assistant Director (Programming) etc. should also be filled up at the earliest and in case of isolated posts, recruitment rules should be framed within a stipulated time. The Committee would also like to know the outcome of the assessment made by Staff Inspection Unit (SIU) of Department of Expenditure regarding staff strength of the Commission and the future course of action proposed to be taken by the Government in this regard.

Reply of the Government

2.12 Efforts made to fill up key posts mentioned in para 1.43 are as follows: –

A. DIG

2.13 The post of DIG in the Commission fell vacant on 1.11.2005. According to the provisions of the relevant Recruitment Rules, officers of the Indian Police Service (IPS) holding analogous posts on a regular basis or who are approved for appointment as DIG, are eligible for appointment on deputation basis for the post of DIG in NCSC. Accordingly, the Ministry wrote to the Ministry of Home Affairs on 30.1.2006 to send a panel of suitable

officers for the post. In addition, the Ministry also sent a request on 10.8.2007 to all State Chief Secretaries to forward names of suitable IPS officers. However, only 15 States/UT Administrations responded to this Ministry's request all stating that they did not have any officers to recommend for the post. The Ministry of Home Affairs, after regular follow-up, sent the name of one IPS officer on 14.8.2007, which was conveyed to NCSC. However, NCSC vide its letter dated 12.9.2007 insisted for a panel consisting of 3 names. The matter was again taken up with the Ministry of Home Affairs. The Ministry also sent another request on 11.1.2008 to Chief Secretaries of State Governments/UT Administrations, who had not responded to Ministry's earlier request 10.7.2007. However, there was no positive response from any State/UT. The matter was also taken up at the level of the Hon'ble Minister for Social Justice & Empowerment with the Ministry of Home Affairs on 26.3.2008. Thereafter, the Ministry of Home Affairs, vide its communication dated 17.7.2008, sent a panel of two IPS officers. The panel so received was forwarded to NCSC, who vide its letter dated 27.8.2008 requested for one more name from the Ministry of Home Affairs. Further, NCSC vide its letter dated 10.12.2008 requested for a panel of IPS officers from the 1994 batch. Accordingly, the Ministry requested the Ministry of Home Affairs on 5.1.2009 to send a fresh panel. The Ministry of Home Affairs has requested Chief Secretaries of States/UTs, vide its communication dated 29.5.2009, to recommend names of eligible and willing IPS officers for the above post. The matter is being pursued.

B. Law Officer

2.14 For filling up the post of Law Officer, a proposal was sent by the NCSC to the Union Public Service Commission (UPSC). However, UPSC informed NCSC vide its letter dated 19.3.2009 that none of the candidates who had applied for the post was found eligible for consideration for selection/appointment to this post and as such, the selection process has been rendered infructuous. The UPSC accordingly advised the NCSC to take further

necessary action to fill up the post as per provisions of the Recruitment Rules. NSCS has informed that fresh exercise will be undertaken after amendment of the Recruitment Rules as per the recommendations of the 6th Central Pay Commission, for which necessary proposal has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009.

C. Librarian

2.15 A proposal to fill up the post of Librarian was sent to the Union Public Service Commission (UPSC) by NCSC vide its letter dated 22.7.2008. However, UPSC pointed out that the Recruitment Rules (RRs) for the post, notified in 1984, become unworkable and accordingly, advised that the existing RRs may be repealed/amended/replaced suitably by fresh RRs. Proposal for amendment of RRs has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009. After concurrence of DOPT, UPSC and vetting by the Legislative Department, the amended RRs would be notified and action would be taken to fill up the post.

D. Assistant Director (Programming)

2.16 Proposal for framing of Recruitment Rules (RRs) has been sent to the Department of Personnel & Training (DOPT) on 23.7.2009. After concurrence of DOPT, UPSC and vetting by the Legislative Department, the RRs would be notified and action would be taken to fill up the post.

E. Assistant Public Relation Officer

2.17 NCSC is drafting Recruitment Rules (RRs) for the post. Once the draft RRs are received, they will be finalised in consultation with DOPT, UPSC and Law Ministry after which action to fill up the post would be taken after notification of the RRs.

F. Assistant Director (Research)

2.18 There is no post of Assistant Director (Research) in the Commission. As regards the outcome of the assessment made by the Staff Inspection Unit (SIU) of the Department of

Expenditure, the Commission has informed that the process for the work study has been initiated and the report would be made available after completion of the study.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

2.19 Please see Para No. 1.27 of Chapter – I.

Recommendation (Sl. No. 11, Para No. 2.7)

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

Reply of the Government

2.21 The above para is factual and needs no comments.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 15, Para No. 3.7)

2.22 The Committee note that to determine the procedure and methodology of its investigation, Rules of Procedure have been framed in the year 2004 and published in the Gazette of India. The Committee also note that in order to monitor and evaluate the impact of development schemes, the Commission interacts with the State/UT Governments by holding State level review meetings and through field visits. For speedy investigation of complaints and prompt disposal of cases, the Commission calls for all relevant records

alongwith concerned officials/liaison officers. The Committee further note that to evaluate various programmes undertaken by the Government, the Commission and its officers both at headquarters and in the State offices participate in formulation of policies and the development programmes for SCs, including SC Sub Plan. The field offices of the Commission also conduct evaluation studies of various programmes being implemented for the welfare of SCs.

Reply of the Government

2.23 The above para is factual, and needs no comments.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 17, Para No. 3.9)

2.24 The Committee also note that the Commission has conducted various State level review meetings in the last three years. The Committee are deeply anguished that State Governments are not responding to the minutes of the review meetings circulated to them. The Committee strongly recommend that the Commission should pursue with State Governments for taking appropriate action at the earliest. In case they still persist with indifferent attitude, it is advised that Government should initiate action to amend the Constitution so that State Governments are made accountable for their lapses in regard to matters concerning welfare of Scheduled Castes people.

Reply of the Government

2.25 If the Commission brings any cases of non-response by State Governments to the Ministry's notice, the Ministry will vigorously take up the matter with the State Government concerned.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

2.26 Please see Para No. 1.39 of Chapter – I.

Recommendation (Sl. No. 18, Para No. 3.10)

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

Reply of the Government

2.28 The National Commission for Scheduled Castes (NCSC) has intimated that the report of the Committee is being placed before the Commission in the near future.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

2.29 Please see Para No. 1.42 of Chapter – I.

Recommendation (Sl. No. 19, Para No. 4.3)

2.30 The Committee note that NCSC has published some leaflets for handling atrocities cases. They have also brought out monthly magazine namely “Anusuchit Jati Vani” and published a booklet on RTI and Yellow Hand Book giving the information/data. They have also launched their web-site more than one year ago and established a Toll Free Telephone number. The Committee further note that the information is available in Hindi and English and wherever possible the State Offices of the Commission translate the same in the regional language. The Committee strongly recommend that the material should be made available at all times in regional languages for wider dissemination. The Committee note that information about the Commission reaches the Scheduled Castes population through press conferences with print and electronic media which is not enough. Many Scheduled Caste people are still living in remote areas where the media cannot reach; they cannot read or write and are still in

dark about their rights and the safeguards available to them. The Committee would, therefore, recommend that NCSC should send teams to remote areas not only to monitor and evaluate the working of safeguard physically but also to create an increased level of awareness among SCs. The Committee would also like all regional offices to make every effort to see that all Scheduled Caste people living in their regions are made aware that NCSC is the custodian of their rights and could be approached for safeguarding their rights and interests.

Reply of the Government

2.31 The recommendations of the Committee have been noted for compliance by the National Commission for Scheduled Castes (NCSC).

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

CHAPTER – III**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT****Recommendation (Sl. No. 4, Para No. 1.19)**

3.1 The Committee note that Shri Fakirbhai Vaghela, Vice Chairman, NCSC while submitting the First Special Report (01.04.2006 to 30.09.2006) to His Excellency President of India in his DO letter, dated February, 2007 has *inter-alia* mentioned that one mandate of Article 338 (5)(c) of the Constitution, that it is the duty of the Commission to participate and advise on the planning process of socio-economic development of SCs, has not been translated into practice by making institutional arrangement in the planning process of the Government. He had, therefore, requested that Chairman of NCSC needs to be made a member of the Planning Commission or, if not possible, then at least a permanent invitee to the Planning Commission. The Secretary, Ministry of Social Justice and Empowerment had, however, refuted the claim made by NCSC by saying that the National Commission are associated in various Committees, working groups or other such bodies set up by the Planning Commission. The Committee feel that there is an urgent need to bring out a formula by which participation of the NCSC in the planning and evaluation process for socio-economic development of SCs at the Central and State levels is assured. If required, the Committee would like the Government to initiate action to amend Article 338 of the Constitution so that the Chairman of the Commission may have an effective role in planning and evaluation process at the Central and State levels.

Reply of the Government

3.2 A representative of the National Commission for Scheduled Castes (NCSC) was kept as one of the members of the XI Plan Working Group on Empowerment of SCs. Besides, the

Joint Secretary, NCSC, is also invited by the Planning Commission to meetings of State-wise Working Groups which take place to finalise the Annual Plans under SCSP of various States. In addition, the Planning Commission has been requested in July, 2009 to include the Chairperson, National Commission for Scheduled Castes (NCSC) in the National Development Council (NDC) either as a Member or a Special Invitee. The Planning Commission has also been requested to associate a representative of NCSC in Annual Plan discussions of Central Ministries, which have a key role in SC development e.g. Ministries of Women & Child Development, Human Resource Development, Health & Family Welfare, Rural Development, HUPA, Department of Financial Services, Labour & Employment and Agriculture etc. A copy of D.O. letter dated 24.7.2009 sent by Secretary (SJ&E) to Secretary, Planning Commission in the matter is enclosed.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

3.3 Please see Para No. 1.9 of Chapter – I.

Recommendation (Sl. No. 8, Para No. 1.42)

3.4 The Committee note with concern that the procedure for appointment and regulation of staff of the Secretariat of NCSC is quite complicated. The Committee note that some posts of Secretariat staff such as Secretary/Joint Secretary/Director/Deputy Secretary are filled up under Central Staffing Scheme by DOP&T; the staff at the level of Under Secretary, Section Officer, Assistant, UDC, LDC, PPSs, Steno and PA are filled up by DOP&T and are borne on the strength of Ministry of Social Justice & Empowerment, while Joint Cadre posts of Director, Deputy Director and Assistant Director are filled up by the Ministry of Social Justice & Empowerment as per their Recruitment Rules. The Committee also note that all other officers/officials including co-terminus staff of Chairperson, Vice-Chairperson and Members

are recruited and regulated by the NCSC through the process of direct recruitment as well as on deputation/absorption basis, as per Recruitment Rules.

Reply of the Government

3.5 Posts in the Commission are filled up according to the relevant Recruitment Rules (RRs). Briefly to state, while the posts of Joint Secretary and Secretary in the Commission are filled by the Department of Personnel and Training (DOPT) under the Central Staffing Scheme, recruitment to Group "A" posts belonging to the joint cadre, both for NCSC HQ and its State Offices, is made by the Ministry of Social Justice & Empowerment. Similarly, recruitment to posts of Assistant, Stenographers, Section Officer, Under Secretary and Deputy Secretary in the Commission's HQ is made by the Ministry of Social Justice & Empowerment, out of the personnel made available to it by DOPT. However, recruitment to (i) Group "B", Group "C" and Group "D" posts in the Commission's HQ, (ii) Group "B" posts belonging to the joint cadre and (iii) all posts in State Offices is made by the Commission itself.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 10, Para No. 1.44)

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

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

Reply of the Government

3.7 The National Commission for Scheduled Castes (NCSC) is already the appointing authority for all (i) Group “B”, “C” and “D” posts at its Headquarters, (ii) Group “B” posts belonging to the joint cadre of the Ministry of Social Justice & Empowerment, NCSC and NCST, and (iii) posts in NCSC field offices (except Group “A” posts of the joint cadre). Thus, it is mainly Group “A” posts for which Central Government is the appointing authority, which is the same as in other comparable organizations. In regard to key posts of Group “A” (e.g. Secretary, Joint Secretary and Deputy Inspector General), the Commission is generally consulted in advance, and its views taken into account.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 12, Para No. 2.8)

3.8 The Committee further note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes had submitted seven regular and one special report to the President during the period of about 12 years out of which six Annual Reports and the Special report had been laid in the Parliament. However, nothing has been said with regard to laying of the 7th Report submitted to the President on 17.02.2004. The Committee should be apprised of the fate of that report. It has also been stated that the Commission had submitted three special reports in 2000 concerning State Governments of Bihar, Uttar Pradesh and Madhya Pradesh. After bifurcation of NCSCST, the National Commission for Scheduled Castes has submitted one Annual Report for the year 2004-05 in July, 2006 and one Special Report for the period 01.04.2006 to 30.09.2006.

Reply of the Government

3.9 Seventh Annual Report of erstwhile National Commission for Scheduled Castes and Scheduled Tribes was laid in Parliament on 29.11.2007 in Lok Sabha and on 3.12.2007 in Rajya Sabha. So far as the other 3 Special Reports are concerned, these relate to issues concerning particular State Governments. These Reports have been sent to the concerned States for taking action as per clause (7) of Article 338 of the Constitution. First Annual Report of the National Commission for Scheduled Castes for the year of 2004-05 submitted in July, 2006 was sent to concerned Ministries for Action Taken Reports on portions concerning them. The Report, along with explanatory memorandum, would be laid in the next session of Parliament. Similarly, First Special Report of the Commission, for the period 01.04.2006 to 30.9.2006 received in February, 2007 was sent to the Ministries concerned for Action Taken Reports on the recommendations related to them. The inputs received from them are being compiled and the Special Report of the Commission will be laid in the Parliament soon.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

3.10 Please see Para No. 1.30 of Chapter – I.

Recommendation (Sl. No. 16, Para No. 3.8)

3.11 The Committee note that the Commission has been managing to perform despite constraints in the existing system as mentioned during evidence. The Committee note that Commission has made some observations in regard to delay in payment of scholarship. The Committee concur with the views of the Commission and recommend that the Ministry should impress upon all the State Governments to create revolving fund for disbursement of scholarship in the beginning of the year so that SC children are able to avail themselves of

the same in time. The Committee are happy to note that the members of the Commission visit the spot whenever any atrocity takes place and also ensure that POA Act is applied on the cases of atrocities on SCs. The Committee recommend that the Commission should continue intervening in the cases of atrocities so that victims get proper justice as per the law. The Committee strongly recommend that there should not be any laxity in investigation relating to safeguards provided to SCs.

Reply of the Government

3.12 The Ministry has been urging State Governments from time to time to streamline the procedure for timely payment of Scholarships to SC students. So far as the creation of revolving fund in the beginning of the year for disbursement of scholarship is concerned, it may not be necessary since State Governments have to, in any case, bear expenditure on these scholarships to the extent of their committed liability and may utilize that amount till they are released admissible central assistance as per the criteria of the Scheme.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 20, Para No. 4.5)

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

The Committee recommend that utmost care should be taken to choose only those NGOs/Voluntary Organisations which are genuinely working for the welfare and cause of Scheduled Castes people. The Committee recommend that NCSC should also examine whether the fund granted to NGOs during the last 3 years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of Scheduled Castes people.

Reply of the Government

3.14 NCSC has informed that it is taking action on the recommendations concerning the Commission. The Ministry of Social Justice & Empowerment has been releasing grants-in-aid to the Non-Governmental Organizations (NGOs) under the Scheme of Grant-in-aid to Voluntary Organizations working for Scheduled Castes. Details of grants-in-aid released to NGOs during the last 3 years under the scheme are at Annexure. As regards the credibility of the Voluntary Organizations/NGOs, central assistance is released on the basis of the recommendations of State Governments and the periodical verification/inspection reports by their officers.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

3.15 Please see Para No. 1.45 of Chapter – I.

Recommendation (Sl. No. 21, Para No. 4.10)

3.16 The Committee note that allocation of Plan funds is made by the Planning Commission and instructions regarding earmarking of funds under the Scheduled Castes Sub Plan (SCSP) in proportion to Scheduled Castes population have been issued from time to time. The Committee also note that the States are required not only to provide the funds in their Special Component Plan in proportion to the population of the SCs in the States but also to

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

Reply of the Government

3.17 The matter regarding earmarking of funds under Scheduled Castes Sub Plan was taken up with the Chief Minister of Andhra Pradesh at the level of the Hon'ble Minister for Social Justice & Empowerment on 24.9.2008. In response, the Chief Minister of Andhra Pradesh informed vide his letter dated 30.10.2008 that the State Government is striving continuously to enhance the support levels to Scheduled Castes in the fields of social,

educational and economic development. During the year 2008-09, the State Government has provided 17.30% of the total plan outlay as against the proportion of 16.19% of SC population in the State. He had also assured that the State Government will continue to improve its efforts for all round development of Scheduled Castes in the State. The guidelines for formulation, implementation and monitoring of SCSP by State Governments/UT Administrations have been issued by the Planning Commission. In the latest guidelines issued in October, 2005, it is, inter-alia, provided that non-earmarking of funds under SCSP may result in non-approval of Plans of States/UTs.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Recommendation (Sl. No. 22, Para No. 4.11)

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

Reply of the Government

3.19 The formulation and implementation of Scheduled Castes Sub Plan (SCSP) by Central Ministries and Departments is reviewed by the Planning Commission and this Ministry. The Planning Commission, in December 2006, have issued detailed guidelines to the Central Ministries/Departments for formulation, implementation and monitoring of the SCSP, to be followed strictly in preparation of their Annual Plan. These guidelines, inter alia, provide earmarking of funds under SCSP in proportion to SCs population and placing the same under a separate budget head (789). The specific matter regarding opening of separate budget head was again taken up by the Minister, SJ&E, with the Finance Minister vide letter dated

19.9.2008, with the request to issue necessary instructions to all Ministries/Departments to ensure that at least from the year 2009-10, an appropriate portion of Plan Budget of every Ministry/Department is invariably shown under budget head 789. The Deputy Chairman, Planning Commission was also requested vide letter dated 19.9.2008 to address all the Ministries in this regard to ensure that the SCSP outlays are reflected under the budget head 789, as part of Annual Plan/Budget exercise for 2009-10. The Department of Economic Affairs vide its letter No. 2 (26)-B(S)/2007 dated 8.12.2008, has asked all Ministries to ensure at the time of finalization of Plan outlay of BE 2009-10 that SCSP allocations are shown distinctly under the Minor Head 789.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

3.20 Please see Para No. 1.48 of Chapter – I.

CHAPTER – IV**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION****Recommendation (Sl. No. 3, Para No. 1.18)**

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

Reply of the Government

4.2 Article 338 (2) of the Constitution provides that “subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members...”. The above provision of the Constitution regarding strength of the Commission seems adequate.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

4.3 Please see Para No. 1.6 of Chapter – I.

Recommendation (Sl. No. 6, Para No. 1.30)

4.4 The Committee note that Commission has powers of the Ministry of the Central Government under the Delegation of Financial Powers Rules, 1978, the General Financial Rules, 1963; the Fundamental and Supplementary Rules; the Central Civil Services (Leave) Rules 1972; the Central Services (Joining Time) Rule, 1979; the General Provident Fund (Central Services) Rules, 1960, Contributory Provident Fund and similar other Rules. The Committee, however, regret to observe that the Commission does not have full autonomy in regard to financial and administrative matters and has no powers in matters relating to creation of posts, reappropriation of funds from one head to another; purchase of vehicles; and permitting officers of the Commission to participate in Seminars, Conferences or Training abroad. The Committee are also dismayed by the fact that the Commission, which has been given statutory status and powers of the Ministry of Central Government in certain matters, has to project its requirements to the Ministry of Social Justice and Empowerment for provision to be made in Budget Estimates. The Committee regret to observe that the proposal for separate Demands for Grants for NCSC has also not been agreed to by the Ministry of Finance (Department of Expenditure). The Committee wonder as to why the

Ministry of Finance (Department of Expenditure) have objected to proposals for separate Demands for Grants for the Commission and allowed to have only Budget Head within the Demands for Grants for Ministry of Social Justice and Empowerment. The Committee are distressed that even the statutory status does not entitle NCSC to have a separate entity. The Committee are of the firm opinion that when it was decided to bifurcate NCSCST, it was never envisaged that NCSC would function as a part of the Ministry of Social Justice and Empowerment. If it was so, there was no need to bifurcate the erstwhile Commission into two separate statutory bodies. It could have continued to function as a non-statutory body as earlier. NCSC would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters.

Reply of the Government

4.5 The functions, duties and powers of the National Commission for Scheduled Castes (NCSC) have been laid down under Clauses (5) to (9) of Art. 338 of the Constitution. Further, the Government of India have conferred upon the Chairman, NCSC the powers of the Ministry/Department of Central Government under the Delegation of Financial Rules (DFPR), 1978 etc. The issue of separate Demand for Grants for the Commission was taken up by Secretary, NCSC with the Secretary, Department of Expenditure, Ministry of Finance vide his D.O. letter dated 4.12.2006 in pursuance of the advice of the Planning Commission. However, Secretary (Expenditure) vide D.O. letter dated 15.1.2007 addressed to Secretary, NCSC did not agree to the request. A copy of D.O. letter dated 15.1.2007 which spells out the views of the Department of Expenditure in the matter, is enclosed.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

4.6 Please see Para No. 1.15 of Chapter – I.

Recommendation (Sl. No. 13, Para No. 2.9)

4.7 The Committee regret that the first report (2004-05) of NCSC which was submitted in July, 2006 has not been laid before each House of Parliament since it has been stated that the report was circulated to different Ministries only in November, 2006 and that the response from some Ministries is still awaited. The Committee are pained to note that Ministry of Human Resource Development and Ministry of Panchayati Raj are taking long time in furnishing the comments on the report of NCSC leading to delay in laying of report in Parliament. The Secretary of the Ministry had also submitted before the Committee that the average time taken before giving action taken report for laying the same in Parliament is two years since they have to go to the concerned Ministries/PSUs/State Governments for their comments/views. The Committee, however, do not find such reasoning to be convincing in this era of rapid communication technology. The Committee are of strong opinion that due to absence of a fixed time limit for the submission of report to the Parliament after it has been presented to the President, the Ministry of Social Justice and Empowerment cannot force other Ministries/ Departments to expedite their views/opinion alongwith memoranda of action taken on the recommendations on the report. The Committee are also of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCSC should not only submit its report annually but the Ministry should also take timely action to get the reports presented in the Parliament in a time bound manner. The Committee, therefore, strongly recommend that action to amend clause (6) and (7) of Article 338 of the Constitution should be initiated so that a time limit is fixed for presenting the reports of the NCSC in the Parliament. The Committee also recommend that the Ministry should initiate action for holding discussion on the report in Parliament by way of a Government Motion. The Committee also desire that the Government should impress upon

the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament. The Committee should also be apprised about the position relating to the annual reports for the years 2005-06 and 2006-07 and desire that these reports should be presented to the President and laid in Parliament expeditiously.

Reply of the Government

4.8 While every effort will be made to obtain Annual Reports from the National Commission for Scheduled Castes (NCSC) and lay them in Parliament, as promptly as possible, amendment in the Constitution is, on the whole, not considered necessary. NCSC has also not favoured acceptance of the recommendation. As regards the recommendation of the Committee for holding discussion on the report in Parliament by way of a Government Motion, the issue will be examined in consultation with the Ministry of Parliamentary Affairs and stand of the Government will be communicated to the Committee at an early date. Further, the Ministry of Parliamentary Affairs will also be requested to take action on the recommendation to impress upon the Business Advisory Committee of the two Houses to have discussion on the report of NCSC in Parliament.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

4.9 Please see Para No. 1.33 of Chapter – I.

Recommendation (Sl. No. 14, Para No. 2.19)

4.10 The Committee note that the National Commission for Scheduled Castes has been vested with the duty to *inter alia* investigate all matters relating to the safeguards provided to SCs and to enquire into specific complaints with respect to the deprivation of rights and safeguards of the SCs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to

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

amended to provide greater powers to the Commission so as to enable it to act as an effective and independent organisation.

Reply of the Government

4.11 Under Article 338(8) of the Constitution, the National Commission for Scheduled Castes (NCSC) has already been given powers of a Civil Court to the extent necessary to perform its role of enquiry/investigation as an Ombudsman. Also, the existing provisions of the Constitution seem adequate to ensure the Commission's independence and effectiveness.

[Vide Ministry of Social Justice & Empowerment, New Delhi, O.M.No.16015/1/2009-SCD-VI, Dated 12.08.2009]

Comments of the Committee

4.12 Please see Para No. 1.36 of Chapter – I.

CHAPTER –V

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

-Nil-

**New Delhi;
April, 2010
Vaisakha, 1932 (Saka)**

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

MINUTES
COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND
SCHEDULED TRIBES
(2009-2010)

(FIFTEENTH LOK SABHA)

FIFTEENTH SITTING
(08.04.2010)

The Committee sat from 1100 to 1200 hrs. in Committee Room 'C', Parliament House Annex, New Delhi.

PRESENT

Shri Gobinda Chandra Naskar – Chairman

MEMBERS

Lok Sabha

2. Shri M. Anandan
3. Shri Bhudeo Choudhary
4. Shri Eknath Mahadeo Gaikwad
5. Shri Kamal Kishor 'Commando'
6. Shri Virendra Kumar
7. Shri Bajju Ban Riyan
8. Shri Tufani Saroj
9. Shri Sajjan Singh Verma

Rajya Sabha

10. Shri Veer Singh
11. Shri Brij Bhushan Tiwari
12. Miss Anusuiya Uikey

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director
3. Smt. Maya Lingi, Deputy Secretary
4. Shri M.L.K. Raja, Under Secretary

At the outset, the Hon“ble Chairman welcomed the Hon“ble Members of the Committee. The Committee then considered the draft report on Action Taken by the Government on the recommendations contained in their Thirty-sixth Report (14th Lok Sabha) on the subject “National Commission for Scheduled Castes – Its mandate and achievements – A review of its organisation and working” and adopted the same with minor modifications.

2. The Committee authorised the Chairman to finalise the report in the light of consequential changes, if any, and present the same to both the Houses of Parliament.

XXXX

XXXX

XXXX

XXXX

The Committee then adjourned.

APPENDIX - II
(Vide Para 4 of Introduction)

Analysis of action taken by the Government on the recommendations contained in the Thirty-sixth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.	Total number of recommendations	22
2.	Recommendations/observations which have been accepted by the Government (<u>vide</u> recommendations at Sl. Nos. 1, 2, 5, 7, 9, 11, 15, 17, 18 and 19)	
	Number	10
	Percentage to the total	45%
3.	Recommendations/observation which the Committee do not desire to pursue in view of the Government replies (<u>vide</u> recommendations at Sl. Nos. 4, 8, 10, 12, 16, 20, 21 and 22)	
	Number	8
	Percentage to the total	36%
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. 3, 6, 13 and 14)	
	Number	4
	Percentage to the total	18%
5.	Recommendations/observations in respect of which final replies of the Government have not been received	NIL