

COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES

(2009-2010)

(FIFTEENTH LOK SABHA)

SECOND REPORT

ON

MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL AND TRAINING)

Action taken by the Government on the recommendations contained in Twenty-ninth Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject – “Situation arising out of the employment secured on the basis of false caste certificates”.

Presented to Lok Sabha on 30.11.2009

Laid in Rajya Sabha on 30.11.2009

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LOK SABHA SECRETARIAT
NEW DELHI

November, 2009 /Agrahayana, 1931 (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

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(iv)

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director
3. Smt. Maya Lingi, Deputy Secretary
4. Shri G.C. Dobhal, Committee Officer

INTRODUCTION

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the report on their behalf, present this Second Report (Fifteenth Lok Sabha) on action taken by the Government on the recommendations contained in their Twenty-ninth Report (Fourteenth Lok Sabha) on the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) regarding "Situation arising out of the employment secured on the basis of false caste certificates".

2. The draft Report was considered and adopted by the Committee on the 13th October, 2009 (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 Twenty-ninth Report (Fourteenth Lok Sabha) of the Committee is given in Appendix-II. It would be observed therefrom that out of 17 recommendations made in the report, 3 recommendations i.e. 18 per cent have been accepted by the Government. The Committee do not desire to pursue 6 recommendations i.e. 35 per cent of the total recommendations in view of the replies of the Government. There are 8 recommendations i.e. 47 per cent in respect of which replies of the Government have not been accepted by the Committee and require further reiteration.

New Delhi;
November, 2009
Agrhayana, 1931(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 Twenty-ninth Report (Fourteenth Lok Sabha) on the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) regarding “Situation arising out of the employment secured on the basis of false caste certificates”.

1.2 The Twenty-ninth Report was presented to Lok Sabha on 19th March, 2008. It contained 17 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. 12, 13 and 16).
- (ii) Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from the Government (Sl. Nos. 1, 2, 7, 9, 10 and 14).
- (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, 4, 5, 6, 8, 11, 15 and 17).
- (iv) Recommendations/Observations in respect of which final replies of the Government have not been received (Nil).

1.3 The Committee had recommended that the cases of securing employment on the basis of false caste certificates in respect of both SCs and STs should be examined. However, the Government in some of their replies have concentrated on cases of STs only and have stated that since Hon’ble

High Court of Delhi had directed to verify the matter of securing employment on the basis of fake/forged ST certificates, no case of SC has been verified by them. The concern of the Committee with regard to false certificates is in respect of both SCs and STs. The Committee had nowhere recommended that cases of STs only should be examined. The Committee, therefore, regret the lack of seriousness in regard to implementation of their recommendations. The apathy and lethargy shown by the Government in respect of taking initiative for verification of false SC certificates is a matter of great concern to the Committee. The Committee would like the Government to vigorously take necessary action in this regard.

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

Representation of SCs/STs in services

Recommendation (Sl. No. 1, Para No. 1.7)

1.5 The Committee note that numerous provisions have been made in the Constitution of India for safeguarding the interest of Scheduled Castes and Scheduled Tribes. In pursuance of these provisions, the Scheduled Castes and Scheduled Tribes are getting reservation in services, Educational Institutes, Parliament, Legislative Assemblies, Panchayats and several special programmes are prepared for their welfare. According to the Government, the existing provisions of the Constitution are sufficient to safeguard the interest of the Scheduled Castes and Scheduled Tribes and these provisions have enabled the State to bring them into the mainstream of the country. The Committee agree that the provisions

contained in the Constitution have enabled the State to bring the SC/ST people to the mainstream. While it is true that the representation of SC/ST people is found in services, Educational Institutes, Parliament, Legislative Assemblies and Panchayats, it is also true that the representation of SC/ST people in services and educational institutes has not been adequate and in proportion to their population. According to the information submitted to the Committee, as on 01.01.2005, representation in Group A, B, C and D posts of Scheduled Castes was approximately 11.9%, 13.7%, 16.4% and 18.3%, respectively whereas the representation of Scheduled Tribes was 4.3%, 4.5%, 6.5% and 6.9% respectively of the total population. If these figures include people who could get appointed on the basis of 'false caste certificates', the percentage of representation of SC/ST would be lesser than what is claimed by the Government. The Committee regret to point out that even after lapse of more than 57 years since the Constitution came into existence, the Government have not been able to fully achieve the prescribed percentage of reservation for Scheduled Castes and Scheduled Tribes in services of the Government of India except for Scheduled Castes in Group C and D posts. The Committee also regret to note that the above information is as on 1.1.2005 and that it does not include the information in respect of two Ministries. The Committee would definitely like to know the names of the two Ministries and the reasons why they could not furnish the information.

Reply of the Government

1.6 It is true that the representation of SCs in Group 'A' and Group 'B' services and of STs in all the Groups is not yet adequate but it is also true that their representation has increased substantially during the last five decades. Some of

the reasons for lower representation of SCs and STs in the services, particularly in higher grades are given below:

- (i) There is generally a time gap between occurrence of vacancies and filling them up as recruitment is a time consuming process.
- (ii) Some reserved posts remain vacant due to the non-availability of the requisite number of reserved category candidates.
- (iii) Some of the selected SC/ST candidates do not join the service or leave the service after joining because they get better opportunities elsewhere.
- (iv) Less representation in higher rungs of services is because SC/ST officers retire early due to higher age at the time of entry into service, etc.

1.7 However, the Government has taken following steps to increase the representation of SCs and STs in services:

- (a) Instructions have been issued to all the Ministries/Departments etc. to make earnest efforts to fill up the reserved vacancies in the initial year of recruitment itself by making a second attempt to fill up such vacancies as per instructions contained in the DoPT O.M. No.36012/17/2002-Estt. (Res.) dated 6.11.2003 so that there may not be any cases of reserved vacancies remaining vacant leading to creation of backlog reserved vacancies. These instructions have been re-iterated vide Department of Personnel & Training OM No.36033/1/2008-Estt. (Res) dated 15.7.2008 emphasising the following:

“If sufficient number of suitable SC/ST/OBC candidates do not become available to fill up the vacancies reserved for them in the first attempt of recruitment, a second attempt should be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment year so that the backlog reserved vacancies are not created. If, even after making such efforts, the

reserved vacancies are not filled and backlog reserved vacancies are carried forward to the subsequent recruitment year, concerted efforts should be made to fill up the backlog reserved vacancies as soon as possible”.

- (b) Various relaxation and concessions are provided to the SC and ST candidates. In case of direct recruitment, SC/ST candidates get concessions like relaxation in upper age limit by five years, exemption from payment of examination/application fee, relaxation in qualification regarding experience at the discretion of competent authority, relaxation in standards of suitability, etc. In the matter of promotion, SC and ST candidates get concessions like extension of zone of consideration to five times the number of vacancies in case suitable SC/ST candidates are not available within the normal zone of consideration, relaxation in marks/standards of evaluation, relaxation in upper age limit by five years where upper age limit for promotion is prescribed not exceeding 50 years, etc.
- (c) There is a ban on dereservation of reserved vacancies in case of direct recruitment.
- (d) Special Recruitment Drives (SRDs) were launched to fill up backlog vacancies of SCs and STs in 1989, 1990, 1991, 1993, 1995, 1996 and 2004. About 56169 backlog vacancies were filled during the 2004 Drive.
- (e) A fresh Special Recruitment Drive has again been launched in November, 2008.

1.8 The following two Ministries/Departments could not supply information about representation of SCs and STs when the information was sent to the Committee:

- (i) The Ministry of Environment and Forests,
- (ii) The Ministry of Personnel, Public Grievances and Pensions

1.9 The Ministry of Personnel, Public Grievances and Pensions has since sent the information. Information from the Ministry of Environment and Forests is yet to be received.

Comments of the Committee

1.10 The Committee note that the Government have acknowledged the fact that despite taking various steps, the representation of SCs in Group 'A' and 'B' and STs in all the Groups is not adequate. The contention that the representation of SCs and STs, has increased substantially during the last five decades is only a small consolation, since the goal is still to be achieved. The Committee are, therefore, of the view that swift and concerted efforts are required to be taken in this direction so that required percentage of reservation for Scheduled Castes and Scheduled Tribes is achieved in services at the earliest. The Committee also note that one of the reasons for lower representation of SCs and STs in services is stated to be the time gap between occurrences of vacancies and filling them up as recruitment is a time consuming process. The Committee would like to emphasise that this time gap factor can be easily overcome if the recruitment process is started well before the vacancies actually occur. The Committee, therefore, recommend that DOP&T should instruct all Government offices to bridge the time gap between the occurrence of vacancies and filling them up by forward planning so that all the vacancies are filled up as soon as they become due.

1.11 With regard to non-submission of information by two Ministries, the Committee note that the Ministry of Personnel, Public Grievances and Pensions was one of the Ministries which had not furnished the information earlier. The Committee are surprised that the nodal Ministry itself was unable

to furnish the information in time. The Committee are concerned that the Ministry of Environment and Forests have still not furnish the information. The Committee strongly deplore such casual attitude of the Ministry of Environment and Forests. The Committee desire that the recommendation of the Parliamentary Committee should have been taken seriously and the requisite information furnished as required by them. In the case of laxity on the part of any Ministry in such cases, the matter should have been brought to the notice of the Cabinet Secretariat for appropriate action. The Committee should also be provided with the information in regard to representation of Scheduled Castes and Scheduled Tribes in Group 'A', 'B', 'C' and 'D' in services as on 01.01.2009.

Recommendation (Sl. No. 2, Para No. 1.8)

1.12 The argument of the Ministry that the posts reserved for SCs/STs remain vacant due to non availability of suitable candidates is not at all convincing. The Committee are of the firm view that there is no dearth of qualified SC/ST candidates who are still jobless for want of opportunities. The main hindrance the Committee feel is the lack of zeal on the part of implementing authorities who are not able to give adequate publicity to such posts in SC/ST inhabited areas. The Committee further observe that although the Government have launched Special Recruitment Drives yet they have not been able to achieve the desired results to the optimum satisfaction of these communities. The Committee, therefore, strongly recommend that concerted efforts should be made by the Government to work towards fulfilling the prescribed percentage of reservation for Scheduled Castes and Scheduled Tribes in all categories of posts in Central Ministries/Departments/ PSUs within a time frame.

Reply of the Government

1.13 The Government has imposed a ban on dereservation of reserved vacancies in case of direct recruitment. Therefore, it is not possible to fill up a reserved vacancy by any other category candidate. Nevertheless, some reserved posts remain unfilled because of non-availability of suitable SC/ST candidates for such posts. The Department of Personnel & Training has been trying to ensure that all the reserved vacancies are filled by the reserved category candidates expeditiously. Therefore, the Government has issued instructions to all Ministries/Departments to make earnest efforts to fill up the reserved vacancies in the initial year of recruitment itself and if the vacancies are not filled in the initial year, to fill up such backlog vacancies as soon as possible.

1.14 The Government has been launching Special Recruitment Drives to fill up the backlog vacancies. Such Drive were launched in 1989, 1990, 1991, 1993, 1995, 1996 and 2004. A fresh Special Recruitment Drive has again been launched in November, 2008.

Comments of the Committee

1.15 **The Committee note that Government have taken various measures as also undertook Special Recruitment Drives (SRDs) in the years 1989, 1990, 1991, 1993, 1995, 1996 and 2004 so as to fill up the reserved vacancies for SCs and STs. A fresh SRD is also reported to have been launched in November, 2008. The Committee, however, regret to note that even after launching several SRDs, representation of SCs/STs has not yet reached the prescribed limit. The Committee are deeply concerned over this matter and desire that there is a need to review all measures/steps undertaken so far so that lacunae therein could be removed and prescribed percentage of**

reservation achieved in all categories of posts in Central Ministries/ Departments/PSUs within shortest possible time. The Committee should be apprised about the progress made in the SRD launched in November, 2008 within 6 months from the date of presentation of this report in Parliament. The Committee strongly desire that while undertaking SRDs, it should be strictly ensured that only the genuine SC and ST candidates are recruited.

Recommendation (Sl. No. 3, Para No. 1.9)

1.16 The Committee are not happy with the reply of DOP&T in regard to information sought of the States/UTs. It has been stated by them that the States/UTs have their own reservation policy and data in this respect is not maintained centrally. The Committee feel that if they had any inclination, the information could have been obtained from States/UTs and provided to the Committee. The Committee feel that if there is no mechanism at the central level to monitor/get information with regard to States/UTs, how could it be known as to what extent the benefits enshrined in the Constitution have reached the SC/ST population of the country. The Parliament is a representative body of the country and Members of Parliament serving in the Committee are representatives of the people and are expected by the people to watch the interest of the Scheduled Castes and Scheduled Tribes. Therefore, the Committee are of the firm view that it is the bounden duty of the Union Government to see that reservation provisions and welfare measures for SCs/STs are implemented throughout the country in letter and spirit. The Committee, therefore, recommend that to have an overall view of representation of SCs/STs in the services

under the State not only at the central level but also at State/UT level, the DOP&T should collect information regularly and maintain data in this regard.

Reply of the Government

1.17 Ministry of Personnel, Public Grievances and Pensions is the nodal Ministry for formulation of policy on reservation in civil services under Government of India. Each State/UT has its own reservation policy which is formulated according to the need of the concerned State/UT. It may not be practically feasible to intervene in such affairs of the States which is the exclusive prerogative of the States.

Comments of the Committee

1.18 The Committee are not satisfied with the reply of the Government that Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) is the nodal Ministry for formulation of policy on reservation in Civil Services under Government of India, that each State/UT has its reservation policy which is formulated according to their need and that it could not be practically feasible to intervene in such affairs of the States. The Committee, therefore, strongly opine that the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) being the nodal Ministry should not limit their responsibility only up to formulation of reservation policy at the Central level. As the nodal Ministry, they can atleast obtain information on the progress made in the implementation of reservation policy in States/UTs so as to have a reality check in the matter throughout the country and the Committee, therefore, reiterate their earlier recommendation.

Issuance of caste certificates

Recommendation (Sl. No. 4, 5, and 6 Para Nos. 2.8, 2.9. and 2.10)

1.19 The Committee appreciate that a large number of SC/ST candidates have been able to obtain employment in Government establishments, Banks, PSUs and autonomous bodies, secure admissions in educational institutions against the seats reserved for them on the basis of caste certificates issued to them. The SC/ST people in possession of caste certificates are also availing themselves of other facilities provided by the State.

1.20 The Committee also note that the responsibility of issuing caste certificate is of the agencies of the State Governments and as such, each State has laid down its own procedure for issuance of caste certificates. The language of the certificate is also decided by the State Governments/UTs and certificates are issued either in Hindi or English or the official language of the concerned State. While deposing before the Committee, the Secretary, DOP&T had also stated that the responsibility of issuing and verifying of caste certificate vests with concerned State Government and the appointing authority (Central Government) and absolved his Ministry from any responsibility in this regard. It is, therefore, concluded that the issue and verification of caste certificates are the concern of the State Governments and the appointing authorities have to satisfy themselves that the caste certificates submitted are duly verified and issued by some designated officers of the State Governments. The role of the DOP&T is limited to issuance of guidelines on the subject

1.21 The Committee, however, are not satisfied with the present arrangement as some unscrupulous people have been effortlessly taking advantage of some lacunae in the existing system of issuance and verification of caste certificates. These

people, though not belong to SC/ST category, have been able to get into reserved seats in jobs, educational institutions and to have access to different schemes meant for SCs and STs on the basis of false certificates. This makes a mockery of the existing system as genuine SC/ST people are deprived of their rightful claim in employment, educational institutions, schemes, etc. This act is nothing short of a criminal offence. The Committee are distressed to observe that the Central and the State Governments have not been able to stop the malpractice either due to their limited resources or because of a casual approach towards the problem. In such a situation, the role of the nodal Ministry becomes all the more important as it needs to find ways and means to tackle the problem and to take effective steps to strengthen the system. The Committee, therefore, recommend that DOP&T should examine the matter afresh in consultation with concerned Ministries/Departments as also the State Governments so as to strengthen and make the system foolproof. After examining the matter, detailed uniform guidelines clearly specifying the precise role and responsibilities of Central Ministries/Departments as also that of States in the matter of issue and verification of caste certificates should be issued. The Committee also recommend that DOP&T should ensure that there is uniformity in the wording of the certificate and that caste certificate is issued, besides the official language, if any, of the States either in English or Hindi.

Reply of the Government

1.22 The instructions of the Government provide that before appointing a person against a reserved vacancy, the appointing authority should verify the veracity of caste certificate of the candidate. At the same time States/UTs have been requested to streamline the system of verification of caste certificates so that

unscrupulous non-SC/ST/OBC persons are prevented from securing jobs meant for SCs/STs/OBCs by producing false certificates. They have also been advised to issue instructions in this regard to the concerned District Magistrates/District Collectors/Deputy Commissioners of the districts to ensure at their own level that veracity of the caste/community certificate referred to the district authorities is verified and reported to the appointing authority within one month of receipt of request from such authority. They have further been requested to initiate disciplinary proceedings against officers who default in timely verification of caste status in such cases or issue false certificates so as to rule out collusion between candidates holding false/forged certificate and employees at the district level or sub-district level.

1.23 The certificates are issued either in Hindi or English or the official language of the concerned State. There is a prescribed format for the certificates. It is felt that there is no need to insist that the certificate should be issued only either in Hindi or English. The appointing authority may get the certificate translated into English or Hindi issued by the State Government, wherever such a need arises.

Comments of the Committee

1.24 The Committee note that instructions of the Government provide that before appointing a person against a reserved vacancy, the appointing authority should verify the veracity of certificate of the candidate. It has also been informed that States/UTs have been requested to streamline the system of verification of caste certificates and issue instruction to the concerned District Magistrates/District Collectors/Deputy Commissioners of the District to ensure at their own level that veracity of caste/community certificate referred to the district authorities is verified and reported to the appointing

authority within one month of receipt of the request from such authority. They have also been requested to initiate disciplinary proceedings against officers who default in timely verification of caste status in such cases or issue false certificates so as to rule out collusion between candidates holding false certificates and employees at the district or sub-district level. The Committee note that although clear instructions have been issued to prevent cases of false caste certificates, yet the outcome of and effectiveness of these measures would be known only in due course. The Committee feel that the Central Government should review and revise these instructions if necessary, from time to time. In regard to issue of certificate, the intention of the Committee does not seem to have been understood by the Government that is why they have forwarded the argument that there is no need to issue certificate either in Hindi or English and appointing authority may get the certificate translated into English or Hindi issued by the State Government, if such a need arises. The Committee had recommended that caste certificate be issued, besides the official language of the State, either in English or Hindi and not that it should be issued either in English or Hindi only. The Committee, therefore, reiterate their earlier recommendation.

Scrutiny and verification of caste certificates

Recommendation (Sl. No. 8, Para No. 2.21)

1.25 The Committee also note that the verification of caste status of SC/ST is the responsibility of Civil/District authorities whereas characters and antecedents of candidates are verified by police authorities. The Committee, however, desire that while requesting the police authorities for verification of character and antecedents

they should also be advised to verify the caste status of the candidates. The Committee also desire that the period between verification of character and antecedents and issue of offer of appointment should be utilized for verification of caste certificates from district authorities. The Committee further desire that action should also be taken against the police officials who verify the caste status of an individual, in case the certificate is proved to be fake/false at a later stage. Necessary instructions in this regard may be issued by the Government.

Reply of the Government

1.26 The Government is of the considered view that it should be left to the States/UTs to verify the caste status of persons through the police or through other civil authorities. It may, however, be pointed out that the Government of India has requested all the States/UTs to streamline the system of verification of caste certificates so that unscrupulous non-SC/ST/OBC persons are prevented from securing jobs meant for SCs/STs/OBCs by producing false certificate. They have also been advised to issue instructions in this regard to the concerned District Magistrates/District Collectors/Deputy Commissioners of the districts to ensure at their own level that veracity of the caste/community certificate referred to the district authorities is verified and reported to the appointing authority within one month of receipt of request from such authority. They have further been requested to initiate disciplinary proceedings against officers who default in timely verification of caste status in such cases or issue false certificates so as to rule out collusion between candidates holding false/forged certificates and employees at the district level or sub-district level.

Comments of the Committee

1.27 The Committee note that Government have requested State Governments to streamline the system of verification of caste certificates and to issue instructions to concerned District Magistrates/District Collectors/Deputy Commissioners to ensure at their own level that veracity of caste certificate is verified, reported within one month to the appointing authority, as also to initiate disciplinary proceedings against officers who default in timely verification of caste status. Having noted that verification of caste status is the responsibility of Civil/District authorities whereas character and antecedents of candidates are verified by police authorities, the Committee had recommended that while requesting the police authorities for verification of character and antecedents they should also be advised to verify the caste status of the candidates. The Committee had also desired that action should also be taken against the police officials verifying the caste status of an individual, in case the certificate is proved to be fake/false at a later stage. The Committee do not concur with the view of the Government that it should be left to the States/UTs to verify caste status of the person through the police or through other civil authorities. The Committee, therefore, reiterate their earlier recommendation.

Cases of false caste certificate detected by CBI

Recommendation (Sl. No. 11, Para No. 3.8)

1.28 The Committee note that several cases of seeking employment on the basis of false caste certificates had come to the notice of CBI and the number of employees who had secured employment on the basis of false ST certificate was

reported to be 189 till December 2006. On the date of evidence i.e. 12th February, 2007, the representative of CBI had mentioned that the figure had reached 268 and that it being a continuous process, there could be more names. The Committee are of the view that this is only the tip of the iceberg as the cases detected pertained to the period 1995 to 2000 and that too only relating to ST certificates and there might be cases of forged/fake SC certificates too. As the problem is very grim, the Committee recommend that a similar exercise should be carried out for employment secured on the basis of both SC and ST certificates during the years 2001 to 2007 and such an exercise should be completed speedily so as to discourage such incidents in future. Action taken in this regard should also be apprised to the Committee.

Reply of the Government

1.29 CBI is monitoring the cases of employment secured on the basis of fake ST certificate for the period from the year 1995-2000. CVOs of the Govt. of India Ministries/Departments, Govt. of NCT of Delhi and CVOs of CPSUs are sending the verification report and concerned Ministries/Departments are advised to take suitable legal action as well as Regular Departmental Action against the persons who have secured employment on the basis of fake ST certificate. As the Hon'ble High Court of Delhi had directed to verify the matter of securing the employment on the basis of fake/forged ST certificates, no case of SC has been verified so far.

Comments of the Committee

1.30 The Committee are dismayed by the reply of the Government. Having noted that cases of obtaining employment on the basis of false ST certificate had been detected, the Committee had specifically recommended that a similar exercise should be carried out with a view to finding out that

employment secured during the years 2001 to 2007 by both SC and ST candidates are not on the basis of false caste certificates and that such an exercise should be completed speedily so as to discourage such incidents in future. Instead of undertaking such an exercise, the Government have given a vague reply that the direction of Hon'ble High Court was only to verify the matter of securing the employment on the basis of fake/forged ST certificates and that no case of SC has been verified so far. The Committee are of the strong view that no importance has been attached to their recommendation by the Government and a very casual approach has been taken by the Government. The Committee, therefore, reiterate their earlier recommendation for strict implementation.

Recommendation (Sl. No. 14, Para No. 3.11)

1.31 The Committee observe that out of 189 cases of employees who obtained employment against fake ST certificates, there are 14 cases where stay has been granted by various High Courts. The Committee desire that DOP&T should obtain the information from various Ministries/Departments in regard to efforts made/being made by them for early vacation of stay. The Committee desire that DOP&T should advise the concerned Ministries/Departments to take all necessary steps with a view to ensuring speedy disposal of all such pending cases so that justice is done to genuine SC/ST persons.

Reply of the Government

1.32 Regarding stay granted by various High Court in 14 cases of employment against the fake ST certificates, the concerned Ministries/Departments have been asked to make effective efforts for getting the stay vacated.

Comments of the Committee

1.33 The Committee would like to know the number of cases where stay have been vacated and the action taken by the Government after vacation of stay in those cases, as also the present position of the remaining cases.

Present procedure in dealing with persons producing false caste certificates

Recommendation (Sl. No. 15, Para No. 3.16)

1.34 The Committee note that as per instructions issued by DOP&T vide their O.M. 11012/7/91-Estt.(A), dated 19.5.1993, whenever it is found that a Government Servant, who was not qualified or eligible in terms of recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure employment, he should not be retained in service and necessary action may also be taken under the provisions of the Indian Penal Code for production of false caste certificate. The Committee also note that if the person securing employment on the basis of false caste certificate takes the shelter of the Court and the action of the Government is stayed by the Court, the case is defended in the Court. The Committee are of the view that whenever a person is found to secure employment on the basis of false caste certificate, a swift action should be taken by the employer. The Committee recommend that the person found guilty of producing false caste certificate should be suspended immediately from the service and a case should be registered against him in police station. The Committee also recommend that Department of Personnel & Training should issue necessary instructions in this regard, as assured by the Secretary, DOP&T during evidence before the Committee. The Committee would also like to know the

number of cases in which FIRs have been lodged by the Ministries/Departments separately in pursuance of DOP&T O.M. No. 230/08/2005-AVD-II, dated the 25th May, 2005 as well as their present status.

Reply of the Government

1.35 Whenever a case of fake ST certificate is reported after verification by the concerned Ministry/Department, that Ministry/Department is requested to lodge the FIR with local Police and initiate Regular Departmental Action against that employee. On the basis of information received so far from Ministries/Departments, 29 FIRs have been lodged with the local police.

Comments of the Committee

1.36 The Committee are unable to buy the version given by the Government that whenever a case of fake ST certificate is reported after verification by concerned Ministry/Department, they are requested to lodge the FIR with police station and initiate regular departmental action against that employee. The Committee are not only concerned with fake ST certificates but about fake SC certificates also. The Committee had recommended that the person found guilty of producing false caste certificate should be suspended immediately from the service and a case should be registered against him in police station and that Department of Personnel & Training should issue necessary instructions in this regard. However, no action has been taken by the Government. The Committee had also desired to know the status of FIR lodged by the Ministry/Department in pursuance of DOP&T O.M., dated 25th May, 2005. The Government have furnished only the number of cases where FIRs have been lodged but not their present status. The Committee feel that

the recommendation of the Committee has not been taken seriously and a casual and incomplete reply has been furnished. The Committee take serious note of such attitude of the Government and reiterate their earlier recommendation.

Periodic collection of data

Recommendation (Sl. No. 16, Para No. 3.21)

1.37 The Committee note that periodic information/status report is not maintained by DOP&T with regard to action taken on cases of employment secured on the basis of false caste certificates. The Committee have been informed that the DOP&T is the nodal Ministry for framing policy on reservation in services under the Government of India and appointment to the posts are made by concerned Ministries/Departments attached/ Subordinate offices, etc. and provisions for reservation are implemented by these organisations. The Committee fully agree that every Ministry and Department is competent to make its own recruitment and therefore to make proper recruitment on the basis of genuine caste certificate is the responsibility of every Ministry. The Committee also agree that it is the primary duty of each Ministry/Department to see that every recruitment made against the reserved seat is on the basis of genuine caste certificate. The Committee, however, are of the view that being the overall in charge of framing policy on reservation in services under the Government, it is the responsibility of DOP&T to see that the policy is implemented in letter and spirit. It is, therefore, desirable that to implement the policy successfully a centralized information gathering system should be in place so as to correct the situation as and when required by bringing changes in policy matter. It will also help to have a clear picture as to the details of employment secured on the basis of false caste certificate and to devise a mechanism to prevent

such cases in future. The Committee, therefore, strongly recommend that DOP&T should inter alia obtain information from all Ministries/Departments, PSUs, banks, autonomous bodies and States/UTs in regard to cases of false caste certificates regularly with a view to monitoring their progress and disposal, so that necessary plan of action could be taken to tackle the problem for good.

Reply of the Government

1.38 Information is being collected in this regard and will be submitted as soon as it is available. After analyzing the same a monitoring mechanism will also be established as per the recommendations of the Committee.

Comment of the Committee

1.39 The Committee are delighted to note that as recommended by them, information is being collected and after analysing the same a monitoring mechanism would be established. The Committee desire that information collected in this regard should be furnished to them alongwith the monitoring mechanism that would be devised by the Government.

Bill introduced for effecting penalty for producing and issuing false caste certificate

Recommendation (Sl. No. 17, Para No. 3.27)

1.40 The Committee are happy to note that a Bill namely Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation in Posts and Services) Bill, 2004 has been introduced in Rajya Sabha and a provision has been made in the aforesaid Bill regarding penalty on persons making a false claim as a member of the SC, ST or OBC and also for officers who knowingly issue false certificate. The Committee strongly recommend that Government should take appropriate action to

get the above Bill passed by the Parliament as early as possible so that caste certificates are not misused by non-SC/ST candidates in securing reserved jobs and facilities meant for SC/ST candidates.

Reply of the Government

1.41 The Government withdrew the above referred Bill and introduced an another Bill regarding reservation for Scheduled Castes and Scheduled Tribes only in the Rajya Sabha. That Bill has already been passed by the Rajya Sabha.

Comment of the Committee

1.42 The Committee show displeasure over withdrawal of the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004. The Bill had provision for penalty on persons making a false claim as member of SC, ST or OBC and also for officers who knowingly issue false caste certificates. The Committee would like to know the reasons and circumstances under which the said Bill was withdrawn and replaced by another Bill i.e. the Scheduled Castes and Scheduled Tribes (Reservation in Posts and Services) Bill, 2008. The Committee unanimously urge the Government to withdraw the Scheduled Castes and Scheduled Tribes (Reservation in Posts and Services) Bill, 2008 which was introduced and passed in Rajya Sabha in December, 2008 without discussion keeping in view the anti-reservation provisions incorporated therein. The Committee recommend that the Government should come forward with a fresh Bill on the subject after consulting the Committee and the Constitutional Commissions i.e. The National Commission for the Scheduled Castes and the National

Commission for the Scheduled Tribes which is mandatory under the Constitution.

1.43 The Committee are of the view that though the caste certificates are issued by the State Governments these are also required for seeking employment in Central Government offices/undertakings and availing facilities under different kinds of Central Schemes. Having noted that false caste certificates are being issued in various parts of the country, it is, therefore, the earnest desire of the Committee that responsibility/punishment should be fixed for issuing false caste certificates. At the same time, the Committee are also concerned that genuine SC/ST persons should not be harassed and there should not be delay in issuing SC/ST certificates to them. In regard to cancelling a Caste/Tribe certificate, the Supreme Court has already laid down the procedure in the *Madhuri Patil* case. Keeping in view the above factors, the Committee recommend that a separate model law on false caste certificate may be framed by the Government in consultation with the National Commission for the Scheduled Castes and the National Commission for the Scheduled Tribes, which can be adopted by both the Central and State Governments. The Committee also recommend that such model law *inter-alia* should have provision to prosecute people who obtain employment on the basis of false caste certificates and the officers who issue such certificates, under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and provisions of IPC 420.

CHAPTER – II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 12, Para No. 3.9)

2.1 The Committee also note that after an action is suggested by CBI to be taken by Ministries/Departments concerned, the status of cases are not being maintained by CBI. The Committee desire that the CBI should keep record of all such cases so that they can check the progress made in disposing of the cases.

Reply of the Government

2.2 CBI is keeping/maintaining the records of forged ST caste certificate cases as are being sent by Govt. of India Ministries/Departments.
(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Recommendation (Sl. No. 13, Para No. 3.10)

2.3 The Committee are pained to note that the list of employees who obtained employment on the strength of false ST certificate ironically include 3 employees working in DOP&T. The Committee are also distressed to note that there are two IAS Officers who have allegedly entered the Civil Services on the strength of false caste certificates. The Committee take serious note of the matter and cannot absolve DOP&T of its responsibility for such lapse, being the appointing authority. The Committee, therefore, strongly recommend that suitable action should be taken against the officers of DOP&T who, as appointing authority, had failed in their duty to get the certificates of all these officers verified properly.

Reply of the Government

2.4 As per the practice for Civil Services Examination, UPSC recommends the selected candidates based on the verification of original caste certificates. Thereafter, when there is a specific complaint against an individual regarding false SC Certificate, the Caste Certificates are verified through concerned District authorities. In Civil Services Exam 2000 and 2006 based on specific complaints against Shri Abhinav Chandra and Ms Sheetal Verma, the Department got the caste Certificate verified.

2.5 In case of Ms. Sheetal Verma, District authorities found her claim to be valid. The claim of Shri Abhinav Chandra was found valid by the caste certificate verification committee, Pune Division which certified that the caste certificate issued by Tehsildar and Executive Magistrate Pune City showing the caste of Shri Abhinav Chandra as Bansor, a Scheduled Caste is valid. Though the complaint was only against Shri Abhinav Chandra and not against Shri Abhishek Chandra, it was decided that the report of the verification Committee, Pune in respect of Shri Abinav Chandra, as corollary, will apply to Shri Abhishek Chanda also who was allotted to IAS in CSE 2002.

2.6 Later, in July 2005, the CBI informed DoPT that a case R.C. No.15(S)/2005-SCU.1/CBI/SCR.1/New Delhi had been registered against Shri Abhinav Chandra (CSE2002) and Shri Abhishek Chandra (CSE 2002) for their appointment to IAS on the basis of purported caste certificates. Related documents in respect of these two candidates were forwarded for further investigation on 18/7/2005.

2.7 As would appear, the Department took steps for verification in respect of those candidates against whom complaint was made. However, in view of the observations in para 3.10 of the Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes, the Department has taken a view that henceforth, starting from last result (CSE2007), Caste Certificates of all candidates allotted to IAS shall be verified through the concerned State Governments. Necessary changes will be made in the confirmation process such that the confirmation in IAS shall take place only on verification of Caste Certificates. Amendments are being made in the appointment letters to make appointment to IAS conditional subject to verification of Caste Certificates.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Recommendation (Sl. No. 16, Para No. 3.21)

2.8 The Committee note that periodic information/status report is not maintained by DOP&T with regard to action taken on cases of employment secured on the basis of false caste certificates. The Committee have been informed that the DOP&T is the nodal Ministry for framing policy on reservation in services under the Government of India and appointment to the posts are made by concerned Ministries/Departments attached/Subordinate offices, etc. and provisions for reservation are implemented by these organisations. The Committee fully agree that every Ministry and Department is competent to make its own recruitment and therefore to make proper recruitment on the basis of genuine caste certificate is the responsibility of every Ministry. The Committee also agree that it is the primary duty

of each Ministry/Department to see that every recruitment made against the reserved seat is on the basis of genuine caste certificate. The Committee, however, are of the view that being the overall in charge of framing policy on reservation in services under the Government, it is the responsibility of DOP&T to see that the policy is implemented in letter and spirit. It is, therefore, desirable that to implement the policy successfully a centralized information gathering system should be in place so as to correct the situation as and when required by bringing changes in policy matter. It will also help to have a clear picture as to the details of employment secured on the basis of false caste certificate and to devise a mechanism to prevent such cases in future. The Committee, therefore, strongly recommend that DOP&T should inter alia obtain information from all Ministries/Departments, PSUs, banks, autonomous bodies and States/UTs in regard to cases of false caste certificates regularly with a view to monitoring their progress and disposal, so that necessary plan of action could be taken to tackle the problem for good.

Reply of the Government

2.9 Information is being collected in this regard and will be submitted as soon as it is available. After analyzing the same a monitoring mechanism will also be established as per the recommendations of the Committee.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

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

CHAPTER – III

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

Recommendation (Sl. No. 1, Para No. 1.7)

3.1 The Committee note that numerous provisions have been made in the Constitution of India for safeguarding the interest of Scheduled Castes and Scheduled Tribes. In pursuance of these provisions, the Scheduled Castes and Scheduled Tribes are getting reservation in services, Educational Institutes, Parliament, Legislative Assemblies, Panchayats and several special programmes are prepared for their welfare. According to the Government, the existing provisions of the Constitution are sufficient to safeguard the interest of the Scheduled Castes and Scheduled Tribes and these provisions have enabled the State to bring them into the mainstream of the country. The Committee agree that the provisions contained in the Constitution have enabled the state to bring the SC/ST people to the mainstream. While it is true that the representation of SC/ST people is found in services, Educational Institutes, Parliament, Legislative Assemblies and Panchayats, it is also true that the representation of SC/ST people in services and educational institutes has not been adequate and in proportion to their population. According to the information submitted to the Committee, as on 01.01.2005, representation in Group A, B, C and D posts of Scheduled Castes was approximately 11.9%, 13.7%, 16.4% and 18.3%, respectively whereas the representation of Scheduled Tribes was 4.3%, 4.5%, 6.5% and 6.9% respectively of the total population. If these figures include people who could get appointed on the basis of 'false caste certificates', the percentage of representation of SC/ST would be lesser than what is claimed by the

Government. The Committee regret to point out that even after lapse of more than 57 years since the Constitution came into existence, the Government have not been able to fully achieve the prescribed percentage of reservation for Scheduled Castes and Scheduled Tribes in services of the Government of India except for Scheduled Castes in Group C and D posts. The Committee also regret to note that the above information is as on 1.1.2005 and that it does not include the information in respect of two Ministries. The Committee would definitely like to know the names of the two Ministries and the reasons why they could not furnish the information.

Reply of the Government

3.2 It is true that the representation of SCs in Group 'A' and Group 'B' services and of STs in all the Groups is not yet adequate but it is also true that their representation has increased substantially during the last five decades. Some of the reasons for lower representation of SCs and STs in the services, particularly in higher grades are given below:

- (i) There is generally a time gap between occurrence of vacancies and filling them up as recruitment is a time consuming process.
- (ii) Some reserved posts remain vacant due to the non-availability of the requisite number of reserved category candidates.
- (iii) Some of the selected SC/ST candidates do not join the service or leave the service after joining because they get better opportunities elsewhere.
- (iv) Less representation in higher rungs of services is because SC/ST officers retire early due to higher age at the time of entry into service, etc.

3.3 However, the Government has taken following steps to increase the representation of SCs and STs in services:

(a) Instructions have been issued to all the Ministries/Departments etc. to make earnest efforts to fill up the reserved vacancies in the initial year of recruitment itself by making a second attempt to fill up such vacancies as per instructions contained in the DoPT O.M. No.36012/17/2002-Estt. (Res.) dated 6.11.2003 so that there may not be any cases of reserved vacancies remaining vacant leading to creation of backlog reserved vacancies. These instructions have been re-iterated vide Department of Personnel & Training OM No.36033/1/2008-Estt. (Res) dated 15.7.2008 emphasising the following:

“If sufficient number of suitable SC/ST/OBC candidates do not become available to fill up the vacancies reserved for them in the first attempt of recruitment, a second attempt should be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment year so that the backlog reserved vacancies are not created. If, even after making such efforts, the reserved vacancies are not filled and backlog reserved vacancies are carried forward to the subsequent recruitment year, concerted efforts should be made to fill up the backlog reserved vacancies as soon as possible”.

(b) Various relaxation and concessions are provided to the SC and ST candidates. In case of direct recruitment, SC/ST candidates get concessions like relaxation in upper age limit by five years, exemption from payment of examination/application fee, relaxation in qualification regarding experience at the discretion of competent authority, relaxation in standards of suitability, etc. In the matter of promotion, SC and ST candidates get concessions like extension of zone of consideration to five times the number of vacancies in case suitable SC/ST candidates are not available within the normal zone of consideration, relaxation in marks/standards of evaluation, relaxation in upper

age limit by five years where upper age limit for promotion is prescribed not exceeding 50 years, etc.

(c) There is a ban on dereservation of reserved vacancies in case of direct recruitment.

(d) Special Recruitment Drives (SRDs) were launched to fill up backlog vacancies of SCs and STs in 1989, 1990, 1991, 1993, 1995, 1996 and 2004.

About 56169 backlog vacancies were filled during the 2004 Drive.

(e) A fresh Special Recruitment Drive has again been launched in November, 2008.

3.4 The following two Ministries/Departments could not supply information about representation of SCs and STs when the information was sent to the Committee:

(i) The Ministry of Environment and Forests,

(ii) The Ministry of Personnel, Public Grievances and Pensions

3.5 The Ministry of Personnel, Public Grievances and Pensions has since sent the information. Information from the Ministry of Environment and Forests is yet to be received.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

3.6 Please see Para No. 1.10 and 1.11 of Chapter – I.

Recommendation (Sl. No. 2, Para No. 1.8)

3.7 The argument of the Ministry that the posts reserved for SCs/STs remain vacant due to non availability of suitable candidates is not at all convincing. The Committee are of the firm view that there is no dearth of qualified SC/ST candidates

who are still jobless for want of opportunities. The main hindrance the Committee feel is the lack of zeal on the part of implementing authorities who are not able to give adequate publicity to such posts in SC/ST inhabited areas. The Committee further observe that although the Government have launched Special Recruitment Drives yet they have not been able to achieve the desired results to the optimum satisfaction of these communities. The Committee, therefore, strongly recommend that concerted efforts should be made by the Government to work towards fulfilling the prescribed percentage of reservation for Scheduled Castes and Scheduled Tribes in all categories of posts in Central Ministries/Departments/ PSUs within a time frame.

Reply of the Government

3.8 The Government has imposed a ban on dereservation of reserved vacancies in case of direct recruitment. Therefore, it is not possible to fill up a reserved vacancy by any other category candidate. Nevertheless, some reserved posts remain unfilled because of non-availability of suitable SC/ST candidates for such posts. The Department of Personnel & Training has been trying to ensure that all the reserved vacancies are filled by the reserved category candidates expeditiously. Therefore, the Government has issued instructions to all Ministries/ Departments to make earnest efforts to fill up the reserved vacancies in the initial year of recruitment itself and if the vacancies are not filled in the initial year, to fill up such backlog vacancies as soon as possible.

3.9 The Government has been launching Special Recruitment Drives to fill up the backlog vacancies. Such Drive were launched in 1989, 1990, 1991, 1993, 1995, 1996 and 2004. A fresh Special Recruitment Drive has again been launched in November, 2008.

Comment of the Committee

3.10 Please see Para No. 1.15 of Chapter I.

Recommendation (Sl. No. 7, Para No. 2.20)

3.11 The Committee note that according to instructions issued in 1952, the claims of candidates to belong to the SC & ST were to be verified through the District Magistrate of the place where such persons and/or their families reside. The instructions issued subsequently had mentioned the designated officers who were given the authority to issue the caste certificates. The Committee also note that as per instructions issued by DOP&T, the appointing authorities have to verify the caste status of a SC/ST officer at the time of initial appointment and promotion for which no time limit has been prescribed. In 2003, the Committee had requested DOP&T to issue instructions/directives to Collectors/District Magistrates for disposal of cases pertaining to verification of caste certificates within one month. The Committee had been assured during the evidence held on 12th February 2007 that DOP&T would issue direction to all concerned in regard to completion of verification of caste certificate within a prescribed time. The Committee, are happy that as assured by the Secretary, DOP&T during the evidence, letters have been sent to the Chief Secretaries for verifying caste certificate and reporting the matter to the appointing authorities within one month from the receipt of request. It is also heartening to note that the Chief Secretaries have been requested to initiate disciplinary proceedings against those officers who default in timely verification of caste status or issue false caste certificates. The Committee hope that the DOP&T would always

endeavour to take quick timely action for safeguarding the interest of the SCs and STs.

Reply of the Government

3.12 The Department of Personnel and Training assures the Committee that it is determined to take all necessary steps to safeguard the interests of the Scheduled Castes and the Scheduled Tribes in order to ensure that the Reservation Policy is implemented in right earnest.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Recommendation (Sl. No. 9, Para No. 2.24)

3.13 The Committee note that based on a case of Director of Tribunal Welfare, Government of Andhra Pradesh Vs. Laveti Giri, the Supreme Court had given direction to lay down certain procedure and guidelines for issuance of caste certificates and their scrutiny. DOP&T had, therefore, requested the Ministry of Social Justice and Empowerment on 30.07.2001 to examine the issue as the Ministry of Social Justice & Empowerment was responsible for being the nodal Ministry for welfare of SCs/STs and for policy matters like notifying or de-notifying of any caste/community, determination of SC/ST status of persons, method of verification of social status, etc. whereas DOP&T is the nodal Ministry for framing policies of reservations for SCs/STs in services under the Central Government. The Committee are deeply constrained to find that no decision seems to have been taken. The Committee would, therefore, like to know the follow up action taken by the DOP&T to pursue the matter with the Ministry of Social Justice & Empowerment in this regard and strongly recommend that immediate action should be taken to expedite decision on the matter, if not taken already. If any action has been taken,

the Committee should be apprised of the same within three months of the presentation of the report.

Reply of the Government

3.14 The Ministry of Social Justice & Empowerment has furnished following comments in the matter:

“Issue and verification of caste Certificates is the responsibility of the concerned State Government/ Union Territory Administration.

2. The Supreme Court had in its judgement dated 18.04.95 in Civil Appeal No.4285 of 1995 (AIR 1995 SC 1506, Director of Tribal Welfare, Govt. of Andhra Pradesh vs. Laveti Giri and Other); decided the case of a false ST certificate. The Court indicated the detailed procedure for issuance of social status certificates, their scrutiny and approval in the judgment (para 1 to 15).

3. In para 7 of the aforesaid judgment, Justice K. Ramaswamy (one of the two judges Bench) had held as under:-

“Para 7: While reiterating the above guidelines to be workable principles, it is high time that the Government of India would have the matter examined in greater detail and bring about a uniform legislation with necessary guidelines and rules prescribing penal consequences on persons who flout the Constitution and corner the benefits reserved for the real tribals etc. etc. so that the menace of fabricating the false records and to gain unconstitutional advantages by plain/spurious persons could be prevented. Lest they would defeat the Constitutional objective of rendering socio-economic justice envisaged under article 46 in the Preamble of the Constitution under article 14,15,16, 38 and 39.”

3.1 It may be mentioned that even prior to the said judgment, the Ministry of Home Affairs(MHA) in its letters No.35/1/72-R.U.(SCT.V), dated 02.05.1975 and No.BC-12025/2/76-SCT.I, dated 22.03.1977 addressed to the Chief Secretaries of all State Governments and Union Territory Administrations, had issued instructions in regard to issue of Scheduled Caste and Scheduled Tribe certificates. The MHA in another letter No. BC 12025/1/82-SC & BCD IV, dated 29.06.1982 had mentioned that in a meeting of the Consultative Committee for the MHA held in February, 1982, it was said

that SC/ST certificates had been issued to ineligible persons, carelessly or deliberately without proper verification by the officials empowered to issue caste certificates. The MHA in this regard invited attention to its earlier letter No. BC 12025/3/78-SCT-I, dated 29.3.1976 wherein the States/UTs had been requested to take deterrent action against officials who issued certificates carelessly or deliberately without proper verification and that these officials were also to be informed that action would be taken against them under the relevant provision of the Indian Penal Code (Section 420 etc.) if any of them was found to have issued certificates carelessly and without proper verification in addition to the action to which they are liable under the appropriate disciplinary rules applicable to them. The States/UTs were also requested to take strict measures to detect such cases of non-SC and non-ST persons holding false SC/ST certificates, deprive them of benefits that they were not entitled to and impose appropriate penalties and take legal action against them and against those who were responsible for issue of such certificates, strictly and expeditiously.

3.2 Subsequent to the said judgment of the Supreme Court, the erstwhile Ministry of Welfare (which dealt with the subject matter of Scheduled Tribes also), had drafted a Bill namely, "A Bill to regulate the issue of community certificates to persons belonging to Scheduled Castes, Scheduled Tribes and Other Backward Classes and matters connected therewith or incidental thereto" and sent it to all State Governments/UT Administrations along with its letter No.12018/13/95-SCD (R.Cell) dated 13.7.1995 for their views. The States/UTs were also reminded several times. Since consultation with the National Commission for Scheduled Castes and Scheduled Tribes was required in view of article 338(9) of the Constitution, the comments received from 19 States/UTs on the draft Bill were referred to the then National Commission for Scheduled Castes and Scheduled Tribes by this Ministry in its letter No.12018/13/95-SCD (R. Cell) dated 8.11.2002 for obtaining its comments. In October, 1999, the Ministry of Tribal Affairs was created and the subject matter of Scheduled Tribes was allocated to that Ministry. Likewise, in February, 2004, the NCSCST was bifurcated into two separate Commissions namely the National Commission for Scheduled Castes and the

National Commission for Scheduled Tribes. As the draft Bill covered Scheduled Tribes also, the NCSC was again addressed in the Ministry's letter 12018/13/95-SCD (R. Cell) dated 22.12.2005 mentioning therein that since the NCSCST had been bifurcated, it was presumed that the letters of States/UTs would have been forwarded by them to the NCST for necessary action, and requesting the NCSC for early comments. A copy of this letter was endorsed to the NCST and the Ministry of Tribal Affairs (MTA). This Ministry in its letter 12018/13/95-SCD (R.Cell), dated 05.04.2006, 10.11.2006, 05.02.2007, 05.06.2007 and 04.08.2008 also reminded them. As the comments have still not been received, they have now been reminded at the highest level on 30.09.2008. Further action will be taken after receipt of comments from them.

3.3 The Department of Personnel & Training addressed an OM No.42011/22/2006-Estt.(Res) dated 29.03.2007 to all Central Ministries with a copy to State Governments and Union Territory Administrations, on the subject of action against Government servants who get appointment on the basis of false SC/ST/OBC certificates. In this O.M., the DOPT referred to earlier instructions contained in their earlier O.M. No.11012/7/91-Estt(A), dated 19.05.1993, which inter-alia provided that wherever it was found that a Government servant had produced a false certificate in order to secure appointment, he should not be retained in service".

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Recommendation (Sl. No. 10, Para No. 3.7)

3.15 The Committee note that DOP&T had issued instructions on 25 May, 2005 to Chief Vigilance Officers (CVOs) of the Ministries and Director, CBI to collect information in respect of such employees who have been recruited from the year 1995 onwards in all the Ministries/Departments and its agencies including CPSUs, statutory and non-statutory bodies, etc. The Committee also note that the instructions had been issued pursuant to the direction by the High Court of Delhi

regarding re-verification of cases of persons who had secured employment in Government of India, Government of NCT of Delhi and its agencies on the strength of forged/fake ST certificate.

Reply of the Government

3.16 Hon'ble High Court of Delhi vide its order dated 17.3.2004 in Civil Writ Petition No.5976 of 2003 had directed CBI to investigate into the allegation of people obtaining employment on the basis of forged ST certificate. Accordingly, CBI had registered 6 cases against 22 officials serving in different Ministries/Departments of the Govt. of India. Subsequently, vide its order dated 12.01.2005 Hon'ble High Court of Delhi in Civil Writ Petition No.5976 of 2003 directed the CBI to verify the Scheduled Tribe Certificates of those employees, who had secured employment between 1995 and 2000 and thereafter take appropriate action in accordance with law.

3.17 Further, the Hon'ble Delhi High Court directed Department of Personnel & Training (DOPT) to file an affidavit pointing out as to the measures, the Central Government would take to expedite the matter and to ensure that the real persons who are entitled for such benefits are not deprived of the same.

3.18 In pursuance of orders of Hon'ble High Court of Delhi, this Department set up a coordinating mechanism under the Chairmanship of Addl. Director, CBI and CVOs of all Ministries and Departments. In this regard meetings of the CVOs of the Govt. of India ministries/departments, Government of NCT of Delhi and CVOs of CPSUs were convened by CBI in June, 2005. During the meetings, it was decided that the CVOs of the Administrative Ministries/Departments would be the Nodal Officers and they would initiate action to conduct the verification of the caste certificates of their ST employees, who have been appointed after 01.01.1995 in a time bound manner

as per the instructions contained in this Department's OM No.36011/16/80-Estt (SCT) dated 27.2.1981 and OM No.230/08/2005-AVD-II dated 25.05.2005.
(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Recommendation (Sl. No. 14, Para No. 3.11)

3.19 The Committee observe that out of 189 cases of employees who obtained employment against fake ST certificates, there are 14 cases where stay has been granted by various High Courts. The Committee desire that DOP&T should obtain the information from various Ministries/Departments in regard to efforts made/being made by them for early vacation of stay. The Committee desire that DOP&T should advise the concerned Ministries/Departments to take all necessary steps with a view to ensuring speedy disposal of all such pending cases so that justice is done to genuine SC/ST persons.

Reply of the Government

3.20 Regarding stay granted by various High Court in 14 cases of employment against the fake ST certificates, the concerned Ministries/Departments have been asked to make effective efforts for getting the stay vacated.
(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

3.21 Please see Para No. 1.33 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. 1.9)

4.1 The Committee are not happy with the reply of DOP&T in regard to information sought of the States/UTs. It has been stated by them that the States/UTs have their own reservation policy and data in this respect is not maintained centrally. The Committee feel that if they had any inclination, the information could have been obtained from States/UTs and provided to the Committee. The Committee feel that if there is no mechanism at the central level to monitor/get information with regard to States/UTs, how could it be known as to what extent the benefits enshrined in the Constitution have reached the SC/ST population of the country. The Parliament is a representative body of the country and Members of Parliament serving in the Committee are representatives of the people and are expected by the people to watch the interest of the Scheduled Castes and Scheduled Tribes. Therefore, the Committee are of the firm view that it is the bounden duty of the Union Government to see that reservation provisions and welfare measures for SCs/STs are implemented throughout the country in letter and spirit. The Committee, therefore, recommend that to have an overall view of representation of SCs/STs in the services under the State not only at the central level but also at State/UT level, the DOP&T should collect information regularly and maintain data in this regard.

Reply of the Government

4.2 Ministry of Personnel, Public Grievances and Pensions is the nodal Ministry for formulation of policy on reservation in civil services under Government of India.

Each State/UT has its own reservation policy which is formulated according to the need of the concerned State/UT. It may not be practically feasible to intervene in such affairs of the States which is the exclusive prerogative of the States.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

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

Recommendation (Sl. No. 4, 5 and 6 Para No. 2.8, 2.9 and 2.10)

4.4 The Committee appreciate that a large number of SC/ST candidates have been able to obtain employment in Government establishments, Banks, PSUs and autonomous bodies, secure admissions in educational institutions against the seats reserved for them on the basis of caste certificates issued to them. The SC/ST people in possession of caste certificates are also availing themselves of other facilities provided by the State.

4.5 The Committee also note that the responsibility of issuing caste certificate is of the agencies of the State Governments and as such, each State has laid down its own procedure for issuance of caste certificates. The language of the certificate is also decided by the State Governments/UTs and certificates are issued either in Hindi or English or the official language of the concerned State. While deposing before the Committee, the Secretary, DOP&T had also stated that the responsibility of issuing and verifying of caste certificate vests with concerned State Government and the appointing authority (Central Government) and absolved his Ministry from any responsibility in this regard. It is, therefore, concluded that the issue and verification of caste certificates are the concern of the State Governments and the appointing authorities have to satisfy themselves that the caste certificates

submitted are duly verified and issued by some designated officers of the State Governments. The role of the DOP&T is limited to issuance of guidelines on the subject

4.6 The Committee, however, are not satisfied with the present arrangement as some unscrupulous people have been effortlessly taking advantage of some lacunae in the existing system of issuance and verification of caste certificates. These people, though not belong to SC/ST category, have been able to get into reserved seats in jobs, educational institutions and to have access to different schemes meant for SCs and STs on the basis of false certificates. This makes a mockery of the existing system as genuine SC/ST people are deprived of their rightful claim in employment, educational institutions, schemes, etc. This act is nothing short of a criminal offence. The Committee are distressed to observe that the Central and the State Governments have not been able to stop the malpractice either due to their limited resources or because of a casual approach towards the problem. In such a situation, the role of the nodal Ministry becomes all the more important as it needs to find ways and means to tackle the problem and to take effective steps to strengthen the system. The Committee, therefore, recommend that DOP&T should examine the matter afresh in consultation with concerned Ministries/Departments as also the State Governments so as to strengthen and make the system foolproof. After examining the matter, detailed uniform guidelines clearly specifying the precise role and responsibilities of Central Ministries/Departments as also that of States in the matter of issue and verification of caste certificates should be issued. The Committee also recommend that DOP&T should ensure that there is uniformity in the wording of the certificate and that caste certificate is issued, besides the official language, if any, of the States either in English or Hindi.

Reply of the Government

4.7 The instructions of the Government provide that before appointing a person against a reserved vacancy, the appointing authority should verify the veracity of caste certificate of the candidate. At the same time States/UTs have been requested to streamline the system of verification of caste certificates so that unscrupulous non-SC/ST/OBC persons are prevented from securing jobs meant for SCs/STs/OBCs by producing false certificates. They have also been advised to issue instructions in this regard to the concerned District Magistrates/District Collectors/Deputy Commissioners of the districts to ensure at their own level that veracity of the caste/community certificate referred to the district authorities is verified and reported to the appointing authority within one month of receipt of request from such authority. They have further been requested to initiate disciplinary proceedings against officers who default in timely verification of caste status in such cases or issue false certificates so as to rule out collusion between candidates holding false/forged certificate and employees at the district level or sub-district level.

4.8 The certificates are issued either in Hindi or English or the official language of the concerned State. There is a prescribed format for the certificates. It is felt that there is no need to insist that the certificate should be issued only either in Hindi or English. The appointing authority may get the certificate translated into English or Hindi issued by the State Government, wherever such a need arises.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

4.9 Please see Para No. 1.24 of Chapter – I.

Recommendation (Sl. No. 8, Para No. 2.21)

4.10 The Committee also note that the verification of caste status of SC/ST is the responsibility of Civil/District authorities whereas characters and antecedents of candidates are verified by police authorities. The Committee, however, desire that while requesting the police authorities for verification of character and antecedents they should also be advised to verify the caste status of the candidates. The Committee also desire that the period between verification of character and antecedents and issue of offer of appointment should be utilized for verification of caste certificates from district authorities. The Committee further desire that action should also be taken against the police officials who verify the caste status of an individual, in case the certificate is proved to be fake/false at a later stage. Necessary instructions in this regard may be issued by the Government.

Reply of the Government

4.11 The Government is of the considered view that it should be left to the States/UTs to verify the caste status of persons through the police or through other civil authorities. It may, however, be pointed out that the Government of India has requested all the States/UTs to streamline the system of verification of caste certificates so that unscrupulous non-SC/ST/OBC persons are prevented from securing jobs meant for SCs/STs/OBCs by producing false certificate. They have also been advised to issue instructions in this regard to the concerned District Magistrates/District Collectors/Deputy Commissioners of the districts to ensure at their own level that veracity of the caste/community certificate referred to the district authorities is verified and reported to the appointing authority within one month of receipt of request from such authority. They have further been requested to initiate

disciplinary proceedings against officers who default in timely verification of caste status in such cases or issue false certificates so as to rule out collusion between candidates holding false/forged certificates and employees at the district level or sub-district level.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

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

Recommendation (Sl. No. 11, Para No. 3.8)

4.13 The Committee note that several cases of seeking employment on the basis of false caste certificates had come to the notice of CBI and the number of employees who had secured employment on the basis of false ST certificate was reported to be 189 till December 2006. On the date of evidence i.e. 12th February, 2007, the representative of CBI had mentioned that the figure had reached 268 and that it being a continuous process, there could be more names. The Committee are of the view that this is only the tip of the iceberg as the cases detected pertained to the period 1995 to 2000 and that too only relating to ST certificates and there might be cases of forged/fake SC certificates too. As the problem is very grim, the Committee recommend that a similar exercise should be carried out for employment secured on the basis of both SC and ST certificates during the years 2001 to 2007 and such an exercise should be completed speedily so as to discourage such incidents in future. Action taken in this regard should also be apprised to the Committee.

Reply of the Government

4.14 CBI is monitoring the cases of employment secured on the basis of fake ST certificate for the period from the year 1995-2000. CVOs of the Govt. of India Ministries/Departments, Govt. of NCT of Delhi and CVOs of CPSUs are sending the verification report and concerned Ministries/Departments are advised to take suitable legal action as well as Regular Departmental Action against the persons who have secured employment on the basis of fake ST certificate. As the Hon'ble High Court of Delhi had directed to verify the matter of securing the employment on the basis of take/forged ST certificates, no case of SC has been verified so far.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

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

Recommendation (Sl. No. 15, Para No. 3.16)

4.16 The Committee note that as per instructions issued by DOP&T vide their O.M. 11012/7/91-Estt.(A), dated 19.5.1993, whenever it is found that a Government Servant, who was not qualified or eligible in terms of recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure employment, he should not be retained in service and necessary action may also be taken under the provisions of the Indian Penal Code for production of false caste certificate. The Committee also note that if the person securing employment on the basis of false caste certificate takes the shelter of the court and the action of the Government is stayed by the Court, the case is defended in the court. The Committee are of the view that whenever a person is found to secure employment on the basis of false caste certificate, a swift action should be

taken by the employer. The Committee recommend that the person found guilty of producing false caste certificate should be suspended immediately from the service and a case should be registered against him in police station. The Committee also recommend that Department of Personnel & Training should issue necessary instructions in this regard, as assured by the Secretary, DOP&T during evidence before the Committee. The Committee would also like to know the number of cases in which FIRs have been lodged by the Ministries/Departments separately in pursuance of DOP&T O.M. No. 230/08/2005-AVD-II, dated the 25th May, 2005 as well as their present status.

Reply of the Government

4.17 Whenever a case of fake ST certificate is reported after verification by the concerned Ministry/Department, that Ministry/Department is requested to lodge the FIR with local Police and initiate Regular Departmental Action against that employee. On the basis of information received so far from Ministries/Departments, 29 FIRs have been lodged with the local police.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

4.18 Please see Para No. 1.36 of Chapter I.

Recommendation (Sl. No. 17, Para No. 3.27)

4.19 The Committee are happy to note that a Bill namely Scheduled Castes, Scheduled Tribes and other Backward Classes (Reservation in Posts and Services) Bill, 2004 has been introduced in Rajya Sabha and a provision has been made in the aforesaid Bill regarding penalty on persons making a false claim as a member of the

SC, ST or OBC and also for officers who knowingly issue false certificate. The Committee strongly recommend that Government should take appropriate action to get the above Bill passed by the Parliament as early as possible so that caste certificates are not misused by non-SC/ST candidates in securing reserved jobs and facilities meant for SC/ST candidates.

Reply of the Government

4.20 The Government withdrew the above referred Bill and introduced an another Bill regarding reservation for Scheduled Castes and Scheduled Tribes only in the Rajya Sabha. That Bill has already been passed by the Rajya Sabha.

(DOPT's O.M. No. 36022/2/2008-Estt. (Res.) dated 10-02-2009)

Comments of the Committee

4.21 Please see Para Nos. 1.42 and 1.43 of Chapter – I.

CHAPTER –V

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

-Nil-

**New Delhi;
November, 2009**

Agrahayana, 1931 (Saka)

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

APPENDIX-I

MINUTES

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

(FIFTEENTH LOK SABHA)

**FIFTH SITTING
(13.10.2009)**

**The Committee sat from 1500 to 1600 hrs. in Committee Room No. 'D',
Parliament House Annexe, New Delhi**

PRESENT

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

Lok Sabha

2. Shri M. Anandan
4. Shri Tara Chand Bhagora
4. Shri Bhudeo Choudhary
5. Smt. Paramjit Kaur Gulshan
6. Shri Kamal Kishor 'Commando'
7. Shri Virendra Kumar
8. Shri Sohan Potai
9. Shri Gajendra Singh Rajukhedi
10. Shri Bajju Ban Riyan
11. Shri Tufani Saroj
12. Shri Kodikkunnil Suresh
13. Shri Sajjan Singh Verma

Rajya Sabha

14. Shri Krishan Lal Balmiki
15. Shri Lalhming Liana
16. Shri D. Raja
17. Shri Thomas Sangma

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director
3. Smt. Maya Lingi, Deputy 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 Twenty-ninth Report (14th Lok Sabha) on the subject "Situation arising out of the employment secured on the basis of false caste certificates" 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.

3. The Committee also decided to take oral evidence of the representatives of the Ministry of Tribal Affairs on 26th October, 2009 on the Action Taken by the Government on the recommendations/observations contained in the Thirty-third Report (14th Lok Sabha) of the Committee on the subject "National Commission for the Scheduled Tribes – its mandate and achievements – A review of its organisation and working".

The Committee then adjourned with a vote of thanks to the Chair.

APPENDIX - II
(Vide Para 4 of Introduction)

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

1.	Total number of recommendations	17
2.	Recommendations/observations which have been accepted by the Government (<u>vide</u> recommendations at Sl. Nos. 12, 13 and 16)	
	Number	3
	Percentage to the total	18%
3.	Recommendations/observation which the Committee do not desire to pursue in view of the Government replies (<u>vide</u> recommendations at Sl. Nos. 1, 2, 7, 9, 10 and 14)	
	Number	6
	Percentage to the total	35%
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, 4, 5, 6, 8, 11, 15 and 17)	
	Number	8
	Percentage to the total	47%
5.	Recommendations/observations in respect of which final replies of the Government have not been received	NIL