

**LOK SABHA
SELECT COMMITTEE ON THE CONSTITUTION
(SCHEDULED TRIBES) ORDER (AMENDMENT)
BILL, 1996**

EVIDENCE



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1997/Shravana 1919 (Saka)

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**SELECT COMMITTEE ON THE CONSTITUTION (SCHEDULED TRIBES)
ORDER (AMENDMENT) BILL, 1996**

COMPOSITION OF THE COMMITTEE

Shri Amar Roy Pradhan—Chairman

MEMBERS

Lok Sabha

2. Shri Dwaraka Nath Das
3. Shri Lalit Oraon
4. Shri Phagan Singh Kulaste
5. Shri Paban Singh Ghatowar
6. Shri P.R. Das Munshi
7. Shri Pinaki Mishra
8. Shri Uddhab Barman
9. Shri P. Koddandaramaiah
10. Shri S.S. Palanimanickam
11. Dr. Jayanta Rongpi
12. Dr. Arun Sharma
13. Dr. Prabin Chandra Sarma
14. Shri M. Selvarasu
15. Shri S.K. Kaarvendham

SECRETARIAT

- | | |
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| 2. Shri G.C. Malhotra | — <i>Additional Secretary</i> |
| 3. Shri Ram Autar Ram | — <i>Director</i> |
| 4. Shri P.L. Chawla | — <i>Assistant Director</i> |

REPRESENTATIVES OF THE MINISTRY OF WELFARE

- | | |
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| 1. Shri K.K. Bakshi | — <i>Secretary</i> |
| 2. Shri D.K. Manawalan | — <i>Additional Secretary</i> |
| 3. Shri A.K. Chaudhary | — <i>Joint Secretary</i> |
| 4. Shri R.K. Shrivastava | — <i>Director</i> |
| 5. Shri P.L. Yadav | — <i>Research Officer</i> |

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- | | |
|-------------------------|--|
| 1. Shri K.L. Mohanpuria | — <i>Secretary</i> |
| 2. Shri Z.S. Negi | — <i>Joint Secretary & Legislative Counsel</i> |
| 3. Shri S.D. Singh | — <i>Assistant Legislative Counsel</i> |

**SELECT COMMITTEE ON THE CONSTITUTION
(SCHEDULED TRIBES) ORDER (AMENDMENT) BILL, 1986.**

**CORRIGENDA TO
RECORD OF EVIDENCE**

<u>S.No.</u>	<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
1.	(i)	17	Dr.Arun Sharma	Dr.Arun Sarma
2.	(iii)	20	(i)Dr.M.Vijayannunni, R.G.I	(i)Dr.M.Vijayanunni, R.G.I.
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**SELECT COMMITTEE ON THE CONSTITUTION (SCHEDULED TRIBES)
ORDER (AMENDMENT) BILL, 1996**

(WITNESS EXAMINED)

Sl. No.	Name of Association/ Organisation/ individuals etc.	Date on which evidence was taken	Page No.
1	2	3	4
1.	Ministry of Welfare (i) Shri K.B. Saxena, Secretary (ii) Shri Ashok Choudhary, Joint Secretary (iii) Shri A.M. Khan, Director (iv) Shri P.L. Yadav, Research Officer.	25.9.96	1
2.	National Commission for SCs & STs (i) Smt. Asha Das, Secretary (ii) Shri Tripurari Rai, Research Officer.	13.3.97	11
3.	Registrar-General & Census Commissioner, India (i) Dr. M. Vijayannunni, R.G.I. (ii) Shri S.P. Sharma, Dy. Registrar-General (C&T) (iii) Dr. M.K. Jain, Dy. Registrar-General (SS)	13.3.97	11
4.	Ministry of Welfare (i) Shri K.K. Bakshi, Secretary (ii) Shri D.K. Manavalan Additional Secretary (iii) Shri A.K. Chaudhary, Joint Secretary (iv) Dr. R.K. Shrivastava, Director (v) Shri P.L. Yadav, Research Officer.	13.3.97	11

**SELECT COMMITTEE ON THE CONSTITUTION (SCHEDULED TRIBES) ORDER
(AMENDMENT) BILL, 1996**

**RECORD OF EVIDENCE TENDERED BEFORE THE SELECT COMMITTEE ON
THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) BILL, 1996**

(25th September, 1996 from 14.30 hrs. to 16.45 hrs. in Committee Room No. 'C',
Parliament House Annexe, New Delhi)

PRESENT

Shri Amar Roy Pradhan—Chairman

MEMBERS

Lok Sabha

2. Dr. Jayanta Rongpi
3. Shri Lalit Oraon
4. Shri Paban Singh Ghatowar
5. Shri P.R. Das Munshi
6. Shri Pinaki Mishra
7. Shri Uddhab Barman

SECRETARIAT

1. Shri J.P. Ratnesh —*Joint Secretary*
2. Shri J.P. Jain —*Under Secretary*

WITNESSES

MINISTRY OF WELFARE

1. Shri K.B. Saxena,—*Secretary (former)*
2. Shri A.K. Chaudhary,—*Joint Secretary*
3. Shri A.M. Khan,—*Director*
4. Shri P.L. Yadav,—*Research Officer*

MR. CHAIRMAN: Shri Saxena, I welcome you and your colleagues to the sitting of this Committee in connection with the evidence. Before you proceed to the Business, you please introduce yourself and your colleagues.

(Introduction)

MR. CHAIRMAN: As you are aware that we have assembled here to discuss the Bill which is before us.

Direction 58 was read out

You please tell in brief the background of the Scheduled Tribes Order Bill 1996.

SHRI K.B. SAXENA: Prior to 27th January, Koch-Rajbhongshi was included in the list of OBCs in relation to the State of Assam. On 27th January Koch-Rajbhongshi was included in the list of Scheduled Tribes in Assam excluding autonomous districts by an amendment to the Constitution (Scheduled Tribes) Order 1950 affected through the promulgation of an ordinance. The community was simultaneously deleted from the Centre List of OBCs in relation to the State of Assam by a separate notification and the State Government was asked to take similar action with regard to their List.

A Bill seeking to replace the ordinance was introduced in the last Session of the Tenth Lok Sabha. That Bill lapsed upon the dissolution of the Tenth Lok Sabha. Since the validity of the original ordinance was due to expire and the Parliament was not in Session, it was repromulgated on 27th March 1996 so as to give continuing effect to the inclusion of this community in the Scheduled Tribes List. For the same reason, it was further promulgated on 27th June, 1996.

A Constitution (Scheduled Tribes) Order (Amendment) Bill 1996 seeking to replace the ordinance was introduced in the Lok Sabha on 12.7.96 and is under consideration of the present Select Committee of the House.

MR. CHAIRMAN: Do you consider the Koch-Rojbhongshi community as one community or two separate communities?

SHRI K.B. SAXENA: As far as State Government's recommendation is concerned, it is considered as a single community.

MR. CHAIRMAN: What is the criteria that is adopted before you consider one community as a tribe.

SHRI K.B. SAXENA: Over a period of time, five-fold criteria is adopted, that is, in order to determine the status of the community as a Scheduled Tribe, the following characteristics must be present.

The five-fold criteria are; (1) indication of primitive traits (2) distinctive culture (3) geographical isolation (4) shyness of contact with community at large and (5) extreme backwardness.

MR. CHAIRMAN: Had these criteria been fulfilled before you recommended Koch Rajbhongshi as Scheduled Caste?

SHRI K.B. SAXENA: Originally when Assam Government furnished their earlier recommendations, they had submitted a report of the Assam Tribal Research Institute which did not come to the conclusion that this community fulfilled all these five-fold criteria. When this matter was referred to them about the contradiction between the recommendations and the report of the Tribal Research Institute, they subsequently sent recommendations along with a revised report of the Tribal Research Institute which has come to the conclusion that the community fulfils mostly these five-fold criteria.

MR. CHAIRMAN: Did you seek any clarification from the Institute for the reasons which have forced them to reverse their recommendation within a short period of one year only? After one year you are again telling that this is Scheduled Tribe community. How have they fulfilled all these criteria?

SHRI K.B. SAXENA: The Assam Government was asked in January 1995 to intimate the reasons for change. Subsequently the State Government forwarded a copy of the note from the Institute stating that the revised report was based on further study conducted in 1994. A broad survey was undertaken by two investigators of the Institute. According to the Institute, samples chosen for the second survey were more representative of the actual situation. It would also be seen from the perusal of the two reports that the second report is more extensive and detailed than the first one.

MR. CHAIRMAN: Is it purely the job of the State Government? Or have you got anything to do about this decision?

SHRI K.B. SAXENA: Sir, apart from the recommendation of the State Government, we usually consult the Registrar-General of India because they are supposed to have the knowledge about the census ethnographic material and anthropological material about castes and community. The Registrar-General was consulted. The Registrar-General earlier had not recommended inclusion of Koch-Rajbongshi as a Scheduled Tribe. But after the revised report was received from Assam Government, it was referred to them and he agreed.

Earlier, *i.e.* in 1981 the RGI had not favoured it. In 1995, when we received the second report in the context of the revised report of the Assam Government, he favoured it.

MR. CHAIRMAN: Except RGI, have you got any Research Institute at the national level?

SHRI K.B. SAXENA: No, Sir.

MR. CHAIRMAN: What about at the regional level?

SHRI K.B. SAXENA: We do not have anything at the regional level also. We depend upon the State Government and its institution.

MR. CHAIRMAN: Koch-Rajbongshi community is a Scheduled Caste community in West Bengal. It is a Scheduled Tribe community in Meghalaya. It is neither Scheduled Caste nor Scheduled Tribe in Bihar. But in Assam, there is a demand to treat it as a Scheduled Tribe community. How is it that it differs from area to area.

SHRI K.B. SAXENA: Usually in terms of the Constitution, we consult the State Governments who usually get some sort of survey or studies carried out and on the basis of the situation prevailing within the States, they recommend inclusion or exclusion of any community from the existing list. So as far as the particular community is concerned, the situation we look in to it is specific to the State and not with reference to the situation prevailing in any other State.

MR. CHAIRMAN: Ultimately whatever the community will come into the Scheduled Caste List and Scheduled Tribe List, it will be through the Constitution (Amendment) Bill.

SHRI K.B. SAXENA: The parameters of specifying the communities in the List of Scheduled Tribes are State specific and there is nothing like a national list. It is only State specific list. It may happen that a particular community may be in the List of Scheduled Tribes/Scheduled Castes in one State and it may not be so in another State.

There are other examples apart from Assam. That is one particular State a particular community is in the List of Scheduled Tribes but it is not so in another State. Sometimes, even in the State also, there are area restrictions where the community is recognised as Scheduled Caste/Scheduled Tribe but it is not so recognised with respect to other areas. These restrictions are there.

MR. CHAIRMAN: Is there any example? Apart from this Koch-Rajbongshi community, is there any other particular community which is treated as Scheduled Tribe in one place and in another State the same is treated as Scheduled Caste?

SHRI K.B. SAXENA: Kindly give us some time. We will try to find out.

MR. CHAIRMAN: Have you found out the reason behind this clarification? You see sometimes it is in favour and sometimes it is against. What are the reasons? Is there any

political pressure behind it?

SHRI K.B. SAXENA: It is very difficult to say because we depend upon the communication from the State Government and go by the written view expressed by the State Government. But we also took care to consult the new Assam Government when it came to power.

MR. CHAIRMAN: If you recognise this Koch-Rajbongshi as Scheduled Tribe community, to what extent would it affect adversely the benefits available to other Scheduled Tribes in public services and other socio-economic, educational and political fields in Assam?

SHRI K.B. SAXENA: From the information that we have gathered from Assam Government, the total population of Assam is 2.24 crores as per 1991 census. Out of which the Scheduled Tribes population, excluding Koch-Rajbongshi is 28.74 lakhs *i.e.* about 12.82 per cent of the total population. The Government of Assam have estimated that Koch-Rajbongshi community's population on the basis of the population figure of 1951 furnished by the RGI adjusted by decadal growth rate is something around 15.22 lakhs. It means that on the basis of Assam Government's estimate, Koch-Rajbongshi constitutes nearly 6.79 per cent of the total population. So if this 6.79 per cent is added to the existing population of Scheduled Tribes, *i.e.* 12.82 per cent, it would mean that the Scheduled Tribes population increases by more than 50 per cent. Therefore, the same population which was reaping the benefits now would be larger by more than 50 per cent.

MR. CHAIRMAN: Can we increase the percentage of the reservation in respect of this community in the State?

SHRI K.B. SAXENA: As per the Supreme Court's order, reservation cannot exceed 50 per cent. At the national level we find that there is absolutely no scope for increasing the percentage of reservation unless the Constitution itself is amended and also it is declared valid by the Supreme Court. In fact, two State Government's namely, Karnataka and Tamil Nadu had increased the number of reserved posts. Their Bills are pending before the Supreme Court for adjudication. They have not yet been permitted by the Supreme Court. The matter is stayed.

SHRI PABAN SINGH GHATOWAR: Mr. Chairman, as you have rightly said, I think, we have to have some positive view. Rampur Ghat is the border of Assam and on this majority of the Koch-Rajbongshi people live in Assam. On one side they are treated as Scheduled Tribes and on the other side they are demanding for this status. It is one point on which we have to get a positive answer from the Ministry.

According to the Memorandum given by the Koch-Rajbongshi people, they claim that their population is about 30 lakhs to 35 lakhs in Assam. But according to you, it is only 15 lakhs. I do not know which figure is correct.

As per the report of the Tribal Research Institute of Assam given earlier, the Registrar General of India was not agreeable to include this community in the list of Scheduled Tribes three-four years back. Now recently they have recommended their case. I would like to ask what is the opinion of the Registrar General in this case and have they agreed to findings of the Tribal Research Institute or not. I am asking this because they have changed their view within a short span of time.

There should be some apex organisation to study it because the Parliament has constituted this Select Committee to see whether their demand is justified. I do not think

there is any expert body because here is case where the same institution has given two reports. So we are in a fix as to which is the factual one. We have to have some organisation which can guide us.

When we go through some of the reports of the community from Assam especially from the Tribal group, there are two Government colleges in Assam. They have given the statistics of one Government college of Assam and I think you might have gone through the report. There is a difference between what you say and what the report say. This is one of the point which is agitating the minds of the tribal people of Assam. Therefore, I request the Ministry to go through this information also give its reaction in this matter.

DR. JAYANTA RONGPI: Mr. Chairman Sir, with your permission, I would like to know certain aspects of this Bill in question.

Firstly, the Registrar General of India and the Tribal Research Institute of Assam have changed their stand within a span of two years as has been mentioned by the Secretary in his speech. In this case not only the Registrar General of India and the Tribal Research Institute have given their reports but if I am correct two more Joint Select Committees were also formed to look into the matter. They also went through the entire gamut of the issue of scheduling different communities in India. They have visited Assam also. I would like to know what were the opinion of those Committees or other Expert Committees. If I am correct, till date three such Joint Select Committees or Expert Committees had examined the issue of Koch-Rajbhongshi community. I would like to know their opinion at that time.

In 1950, when the first order was published, at that time also the Koch-Rajbhongshi community was considered. I would like to know why their plea was rejected at that time and on what grounds. It would be helpful to the entire Committee to deliberate on this matter and these points are cleared to us. I can even name the Committees which went into this issue. They are The Chelliah Committee, Kapoor Committee and A.K. Chander Committee. This sudden change has to be explained. What is the ground of this sudden change? This clarification has to be given by you or a clarification has to be sought from the State Government.

Secondly, you have mentioned that the population of Koch-Rajbhongshi community is 15.22 lakhs, which is based on 1951 census. You have calculated it by adopting the expected norms or procedures, but here I think, we may commit some mistakes because Koch people are not very homogenous or a well defined community. Any tribe which converts itself to Vaishnavism is called Koch tribe. During the last four decades there have been so many conversions to Vaishnavism. They are accepted in Assamese society under single community called Koch. Therefore, if it is a well defined community, definitely census will be there. It is a very serious matter which we are dealing. Simple calculation or census may not work in this case. So to come to a proper decision, precise data from the Census Department from 1951 to 1996 should be made available and considered before looking into this matter as many people have converted themselves.

Why I am worried is that it is only recently that it has been said that they are 35 lakhs. All the documents originally said that they are 70 lakhs. All the previous memoranda showed their population was 70 lakh in Assam. Now, they say that their population in Assam is 35 lakhs and previous figure of 70 lakhs was for the entire North-East. That is why the census data is very important and it should be collected from the concerned Department. You have said that this is what the Government of Assam has said. What is the information of the Ministry of Welfare? What does your Research Department say? As a person from that area, I know that the Koch people do not call themselves Rajbhongshi, but the people

of Lower Assam call them Rajbongshi Kshatriyas. This nomenclature came only during last 10 years. They had a socio-political meeting where Koch and Rajbongshi people decided to form a common platform. They decided that it should be Koch-Rajbongshi-Kshatriya Sammelan. Later on, two years ago, the then Minister of Welfare said that if they call themselves Kshatriyas, they would not get Scheduled Tribe name. So, they have dropped it and are called Koch-Rajbongshi also.

There is still a confusion that whether it is a single community or they are different communities. Therefore, I want to have a very clear view of the Department whether you take it as a one community. I would also like to know whether any data has been collected in this regard.

You yourself have agreed that population has increased and you cannot increase the quota as per Supreme Court's existing orders. That is one deprivation. I would also like to know whether any survey is made about the economic conditions of the Koch-Rajbongshi vis-a-vis economic conditions of the existing tribals. If so, is there any difference?

In engineering side, 90 per cent seats have gone to Koch people and in other educational institutes, on average 65 per cent seats have gone to Koch people. Then, even if you increase the quota tomorrow, by amending the Constitution, to 80 per cent in regard to Assam, the existing tribal people will still be deprived. The lion share will go to Koch people because others will not be able to compete with them.

You have mentioned five criteria to be fulfilled for entry into Scheduled Tribe. I want to know whether a community has to fulfil all the five criteria or fulfilling of one or two criteria is sufficient. What are your norms in this regard?

SHRI K.B. SAXENA: A question was raised about the actual population of Koch-Rajbongshi that it is declared to be more than 50 lakh by their own community in their memorandum. We have gone only by the State Government's Report. We have also requested the Registrar General of India to tell us the approximate population of Koch-Rajbongshi because they are the people who are in charge of census. We are awaiting their reply and it will be furnished to you as soon as it is received.

MR. CHAIRMAN: Have you received report from Assam Government regarding the population of Koch-Rajbongshi?

SHRI K.B. SAXENA: We received report from them in July, 1996. We have written to RGI and the report is awaited from them.

MR. CHAIRMAN: You supply us a copy of the report received from Assam Government.

DR. JAYANTA RONGPI: Please show the population of Koch and Rajbongshi separately.

SHRI K.B. SAXENA: In this regard, I would say that the Assam Government have treated Koch-Rajbongshi as one unit. In the Other Backward Classes list, it has not been treated separately. The same entry figures in the State List and Central List. So, if you wish, we can obtain further clarification from them. We can also seek clarification from RGI whether it is a single community. The Tribal Research Institute which has gone into this matter in their revised report has said that Koch, Rajbongshi and Kshatriya are simply three terminologies adopted by Koch ethnic group on various socio-political situations. Other field investigation reveals that most of the elements of the criteria for scheduling a community are in existence among the community. So, they are treating Koch, Rajbongshi

and Kshatriya as same community using different terminology suiting to a particular situation.

The question was also raised whether any other Commission, apart from RGI and Assam Government, has looked into the problem. The first Backward Classes (Kalelkar) Commission, which was also concerned with the revision of lists of Scheduled Castes and Scheduled Tribes did not recommend, as far back as in 1955, the specification of Koch-Rajbongshi as a Scheduled Tribe in Assam State. Instead, it recommended its inclusion as an Other Backward Class. The second Backward Classes (Mandal) Commission had also recommended in 1980, the inclusion of this community in Other Backward Classes. Neither the Advisory Committee, headed by Mr. Lokur, on the revision of Scheduled Caste and Scheduled Tribe lists in 1965, nor the Joint Committee of Parliament constituted to examine the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1967, and recommended the inclusion of Koch-Rajbongshi community in the list of Scheduled Tribes of Assam.

SHRI PABAN SINGH GHATOWAR: I would just take a minute. Can I refer to one of the replies of the Registrar General of India? In their comments, they have stated:

"We had earlier received a proposal from the Ministry of Home Affairs for treating Koch as a Scheduled Tribe in the neighbouring State of Meghalaya, *vide* letter No. BC. 12016/17/81-SC&BCD IV dated 25th December, 1980. We had disagreed with the proposal on the ground that Koch have now become non-tribalised and assimilated fully with Hindus. They use the term Rajbanshi which is again an indication of their Sanskritisation. In fact, in the present proposal, the term Rajbongshi is put along with Koch for inclusion in the list of Scheduled Tribes of Assam. This office holds the same view as for Koch of Meghalaya and is unable to support the proposal."

This was the opinion of the RGI. I do not know whether their opinion also changed in this regard.

SHRI K.B. SAXENA: They have changed it. The subsequent report says:

"A similar proposal has again been forwarded by the Ministry of Welfare with the suggestion that the matter may be re-examined in the light of the report on this subject prepared by the Tribal Research Institute, Assam. The said report mentions that the Koch-Rajbongshi have a tribal origin and are backward in all respects than their neighbouring non-tribal communities. It is also reported that there is adequate justification for inclusion of Koch-Rajbongshi in the list of Scheduled Tribes in Assam as the field investigation conducted by the TRI, Assam reveals that most of the elements of the criteria earmarked for scheduling a community are in existence among them also, Koch is already notified as a Scheduled Tribe in the neighbouring State of Meghalaya which was part and parcel of erstwhile Assam.

Therefor, in the light of the empirical data furnished by the Tribal Research Institute, Assam, this office has no objection to include Koch-Rajbongshi in the list of Scheduled Tribes of Assam."

DR. JAYANTA RONGPI: You have mentioned about five criteria. I would like to know whether one particular community has fulfilled all the five criteria or only one or two. What is the exact position?

SHRI K.B. SAXENA: All the five criteria have to be fulfilled.

SHRI PINAKI MISRA: From a plain reading of what has transpired, it is obvious that 45 years of opinion has been sought to be revised suddenly because of this so-called empirical data which has been collected by two field officers. The entire exercise is a result of the information gathered by the two field officers of the TRI. You have suddenly come up with this conclusion. There should be some criteria which ought to be employed in stating whether there is a justification for making them tribals or not. Does it not, *prima facie*, look a little fishy? The point is that the TRI itself has suggested this. Otherwise, the RGI would not have come to this conclusion. What would be the consequence of the inclusion of the Koch-Rajbongshi in the list of ST? We have a slightly broader ambit than the original. The ambit now is that all the other scheduled tribes or the aspiring communities in Assam are now entitled to come before the Committee to ask for their inclusion. Do we have any kind of data in this regard? If there are ten, twelve, fifteen and twenty other communities which wish to be included as Scheduled Tribes, what would be the total number of population which would have to be taken into consideration? What would be the data in terms of the number of representations which have already come up before us? Do you have any data as to what population do they compose? I think we ought to reasonably expect to receive several representations in the next 6—8 weeks. They are in a position to come forward and make representations. We are talking of 20 per cent population of total composition of Assam. If there are some fifteen other communities which are going to come up with representations, what is going to be the ramification? These are some of the issues which are agitating my mind. Kindly explain the position.

SHRI K.B. SAXENA: As far as the first issue is concerned, all these facts were placed before the Government. But in view of the fact that the State Government had sent revised report later and subsequently the RGI also supported the report, the Government took the decision to include this community in the ST list.

SHRI PINAKI MISRA: Does the Central Government have the power of veto over the State Government's recommendations? Assuming that the Central has that power, why was that power not exercised in this case?

SHRI K.B. SAXENA: It is very difficult for me to answer this question. Ultimately, the decision has to be taken by the Government on the basis of available facts.

As regards your second question, the data about the various communities which are now seeking inclusion in the SC/ST list is not available with us. We will have to get the information from the Assam Government. We know that various communities are trying to get themselves included either in the SC or ST list. There are nearly seven communities which have been recommended by the RGI and the State Government. Then, there are about 32 other communities.

MR. CHAIRMAN: Please name the seven communities.

SHRI K.B. SAXENA: The seven communities which are supported by the TRI are the various tea-garden and ex-tea garden communities; the chertion Chutia the Thai Ahom; the Matan; the Moran; the Hajong and the Singpho. The area excludes the autonomous districts.

MR. CHAIRMAN: What is their population?

SHRI K.B. SAXENA: We will obtain that information. Apart from that, there are 39 other representations from other communities. Besides, there are nine which deal with synonymous which also mean more addition to the list.

SHRI PINAKI MISRA: You have mentioned about the 35 representations. Do we have any kind of data on this?

SHRI K.B. SAXENA: We have to collect this data from various agencies. Whatever information we furnished, we received it only on Monday.

MR. CHAIRMAN: How do you define the tea-garden and ex-tea garden communities?

SHRI K.B. SAXENA: The Assam Government has furnished the whole list of such communities. This is the old thing.

MR. CHAIRMAN: You have mentioned about the tea garden and ex-tea garden communities. Whatever it may be, in one tea garden, there are the Brahmins, the Chatterjees, the Banerjees etc. How do you define this?

SHRI K.B. SAXENA: What has happened is that many of these communities have, at present, been included in the OBC list. The names of these communities have been furnished by the Assam Government. We can furnish that list.

SHRI UDDHAB BARMAN: I would like to have some clarifications on certain points. Prior to 27.1.96, the Koch-Rajbongshi were considered as OBCs. After that, they are not entitled to be in the OBC list.

You have already mentioned that prior to 27th January, 1996, the Koch-Rajbongshi was treated as O.B.C. and after that their names were deleted from the O.B.C. list. However, because of the Ordinance promulgated by the President, they are being treated as Scheduled Tribes. They are being given the same facilities. Now, the Ordinance is going to lapse. The position, at present, of the Koch-Rajbongshi community is like of *trisanku*. I would like to know whether you are going to promulgate the Ordinance again so that the Koch-Rajbongshi community can get all the facilities which they are getting now. This is my first question.

Secondly, in one of the reports of T.R.I., you have already mentioned that the Koch-Rajbongshi community is not treated as Scheduled Tribes. But in the second Report you have already mentioned that they can be treated as Scheduled Tribes. We now come to the conclusion that in previous reports there was no field study done in this regard. If field study has not been done properly then the people may be confused. So, naturally, a proper study is required. But, at the same time, many communities were recommended by the Assam Government to be included in the Scheduled Tribes list. Out of seven communities, why have you chosen only the Koch-Rajbongshi community? Why have the other communities not been included? Can you give us the recommendations in respect of all the communities? It should be supplied to the hon. Members so that we can study them. This is my initial reaction to what you have said.

MR. CHAIRMAN: Are these reports available with you or you have to bring it from the Assam regarding these communities?

SHRI K.B. SAXENA: We will supply whatever information is available with us.

MR. CHAIRMAN: I would like to know whether the information asked by Shri Uddhab Barman is available with you or not.

SHRI K.B. SAXENA: As far as seven communities are concerned, we do have some information. We will give it to the Committee.

MR. CHAIRMAN: Please send them to the Secretariat as early as possible.

SHRI P.R. DASMUNSI: I just want to ask one simple question. Suppose, we accept the proposition that Koch-Rajbongshi should be included in the Scheduled Tribes category within the territory of Assam, in that case based on the 1991 census and on the basis of the present list of electorate, I would like to know as to how many constituencies which are

reserved for the Scheduled Castes in the Assembly segment would be converted into the Scheduled Tribes' constituencies and how many general constituencies would be converted into Scheduled Tribes' constituencies because of the physical presence of the Koch-Rajbongshi community. If you kindly work out the details and send them later on, then it would give us the idea about the Assam population ratio.

SHRI K.B. SAXENA: As far as this part of the information is concerned, we will have to consult the Ministry of Home Affairs because the delimitation of the constituencies is their subject.

MR. CHAIRMAN: What is the fate of one MLA who has been elected from the tribal community in Assam?

SHRI UDDHAB BARMAN: I am told that the District Deputy Commissioner has issued Scheduled Tribes certificates to Koch-Rajbongshi community. Some of the youths, who are neither O.B.C. nor Scheduled Tribes, had contested the last election on the basis of those certificates. I would like to know what will be their position.

SHRI K.B. SAXENA: We are referring the matter to the Ministry of Law and very soon we will get their confirmed opinion in this regard.

MR. CHAIRMAN. In the last Session of Parliament when this Bill was referred to the Select Committee, the House was informed that a comprehensive Bill would be brought forward for other communities in the country. I would like to know whether any proposal in this regard has been mooted out in your Ministry.

SHRI K.B. SAXENA: The issue of revision of list is extremely complex and extremely sensitive. Since 1956, when the first list was revised, there have been several attempts at coming out with a consensus for the revision of list. But all these attempts have failed. Now, we are trying to work out the modalities. This issue is under consideration. Once these modalities are decided, then we will refer various cases. After that it may be possible to have a comprehensive Bill.

MR. CHAIRMAN: It was announced in the Parliament that a comprehensive Bill would be brought very soon. What is your reply?

SHRI K.B. SAXENA: Sir, I may submit to this Committee that as yet no decision has been taken whether to include these communities in the list of Scheduled Castes and Scheduled Tribes. There are nearly 1,200 such petitions which are with us which have come over a period of time. They are from all parts of the country. First of all, a decision would have to be taken in respect of each community, whether it should be included or not. In order to do that, we are now determining the modalities. The earlier modalities have not brought any consensus. Once the modalities are determined all representations will be referred and considered in term of the modalities and then only we will take a decision.

MR. CHAIRMAN: Can you tell how much time it will take?

SHRI K.B. SAXENA: I am sorry Sir, I cannot say because even the modalities have not been determined as yet.

SHRI UDDHAB BARMAN: Can you tell whether this particular community will be included in the SC or ST list or not?

SHRI K.B. SAXENA: Sir, that issue is also under consideration. This is one of the issues that we are considering. We have to work out the modalities. A tribal Commission is also being constituted under Article 339(1) of the Constitution of India Various issues are being considered for working out modalities.

MR. CHAIRMAN: I am sure the work will be done quickly so that all the representations are considered early.

I thank all of you for your participation in the meeting.

Thank you.

(The Meeting then adjourned)

**SELECT COMMITTEE ON THE CONSTITUTION (SCHEDULED TRIBES) ORDER
(AMENDMENT) BILL, 1996.**

**RECORD OF EVIDENCE TENDERED BEFORE THE SELECT COMMITTEE ON
THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) BILL, 1996.**

(13th March, 1997 from 15.30 hrs to 17.20 hrs. in Committee Room 'E', Parliament House
Annexe, New Delhi.)

PRESENT

Shri Amar Roy Pradhan—Chairman

MEMBERS

2. Shri Dwaraka Nath Das
3. Shri Paban Singh Ghatowar
4. Shri P.R. Das Munshi
5. Shri Pinaki Mishra
6. Shri Uddhab Barman
7. Dr. Arun Sharma
8. Dr. Prabin Chandra Sarma

SECRETARIAT

1. Shri Ram Autar Ram—*Director*
2. Shri P.L. Chawla—*Assistant Director*

WITNESSES

MINISTRY OF WELFARE

1. Shri K.K. Bakshi—*Secretary*
2. Shri A.K. Choudhary—*Joint Secretary*
3. Dr. R.K. Shrivastava—*Director*
4. Shri P.L. Yadav—*Research Officer*

NATIONAL COMMISSION FOR SCHEDULED CASTES & SCHEDULED TRIBES

1. Smt. Asha Das—*Secretary*
2. Shri Tripurani Rai—*Research Officer*

REGISTRAR—GENERAL & CENSUS COMMISSIONER, INDIA

1. Dr. M. Vijayanunni—*R.G.I.*
2. Shri S.P. Sharma—*Dy. Registrar-General(C&T)*
3. Dr. M.K. Jain—*Dy. Registrar-General
(Social Studies)*

MR. CHAIRMAN: Mrs. Das and Mr. Rai, I welcome you to this sitting of the Parliamentary Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996, in connection with oral evidence.

(Direction 58 was read out.)

So, you shall be free and frank to express your views.

(Introduction)

MR. CHAIRMAN: First of all, I would like to inform that this Select Committee was formed when the Bill for including Koch-Rajbongshi community of Assam in the Scheduled Tribes list was introduced in the Lok Sabha. The House felt that apart from Koch-Rajbongshi community, the other communities which are there, should also be included in the Scheduled Tribes' list. Now, whether they should be included or not, it has to be decided by this Committee. So, I would like to know from you very clearly whether at any stage the Government had consulted your Commission on this subject or not.

SHRIMATI ASHA DAS: Sir, neither we were consulted when the Ordinance was issued nor were we consulted when the Ministry decided to get a second Ordinance issued at the expiry of the first one. We were consulted for the first time on the Dalit Christian Bill that too when we pointed it out to the Government that under the Constitution the Government is bound to consult us on such matters.

MR. CHAIRMAN: Is it necessary to consult you under Article 352 of the Constitution?

SHRIMATI ASHA DAS: Sir, under Article 338, a provision has been made through 65th Amendment which points out under Section 9 that the Union and other State Governments shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes. When the Commission reviewed its own position and the powers it enjoys, it felt that there were many issues which were very important. It also felt that there are policy matters affecting welfare of the Scheduled Castes and Scheduled Tribes on a large scale. Then the Commission went on its own and pointed it out to the Central Government as also to the State Governments that they must take heed of this provision. We also stated that any changes which they wish to bring about which are likely to have a major impact on the existing situation or the welfare of the Scheduled Castes and Scheduled Tribes, they should consult the Commission.

MR. CHAIRMAN: Before the Dalit Christian Bill, had the Commission been consulted?

SHRIMATI ASHA DAS: Sir, I cannot very confidently say whether the Commission had ever been consulted or not before enacting the Dalit Christian Bill. But when it could not be presented in that session, we read about it in the newspapers. I—after taking over as Secretary—personally wrote to the Ministry in this regard. Then they sent it to us for comments before reformulating it. But I am not really in a position to tell whether at any point of time the Commission had been consulted earlier.

MR. CHAIRMAN: Had the Government accepted the report of the Commission on other matters?

SHRIMATI ASHA DAS: Sir, as per the Constitution, we are supposed to submit our report to the President and then it has to be placed on the Table of the House.

MR. CHAIRMAN: But has the Government accepted your recommendations or not?

SHRIMATI ASHA DAS: Sir, as I mentioned, the Government is supposed to place it on the Table of the House along with a action taken report stating the action they have taken on our report.

MR. CHAIRMAN: What is your opinion regarding Koch-Rajbongshi community and other castes which are to be included in Scheduled Tribes list?

SHRIMATI ASHA DAS: Sir, frankly speaking, we have not studied it in detail because we were not consulted earlier. We were not in a position to do a detailed study or survey on

the subject. But after receiving your questionnaire, we have certainly tried to collect data from our own offices. Our own study reveals that Koch-Rajbongshi community has not been declared as 'tribe' in any of the States earlier. In fact, the initial Resolution of the Constitution of 1950 listed these communities or castes under different heads. In the case of West Bengal, it includes Koch-Rajbongshi as two separate castes and enlisted them as Scheduled Castes and not Scheduled Tribes. In the case of Assam, we found that they were included as Other Backward Classes from 1975 onwards as Rajbongshi or Koch. Thereafter, as a result of the Mandal Commission in 1993, as per Government of India resolution, they were recorded under one list at serial No. 18. I have tried to find out from the other States as to what is the status of Koch-Rajbongshi. We found that in Meghalaya, Koch only are included as Scheduled Tribe against Sl. No. 16 of the Presidential Notification in the case of West Bengal they are included as Scheduled Castes at Sl. No. 35 and 54 respectively. That is the actual position. What we found is that only in one state of the country, they are accepted or enlisted as Scheduled Tribe. In two States i.e. West Bengal and Tripura they are enlisted as Scheduled Castes. In fact, they do not enjoy the criterion or the specific features or the basic characteristics which are enjoyed by the communities belonging to Scheduled Tribes. From the very beginning, they have never been recognised as tribals. Only in one portion of Meghalaya called Garo hills, the Koch community was listed as tribe vide the Constitution (Scheduled Tribes) Order (Amendment) Ordinance dated 19.9.1987.

And later on, with the area removal, Koch became recognised as tribals everywhere. But in no other State of the entire region have Koch been declared as tribals. In fact, they have been declared as Backward Class or Scheduled Tribes.

MR. CHAIRMAN: What would be the condition of this Koch-Rajbongshi community, if the Ordinance, I mean the Bill, is not passed?

SHRIMATI ASHA DAS: In Assam also, if the Koch-Rajbongshis are not included as tribals, they would still continue to be treated as Backward Class, which is what they are enlisted as. Unfortunately, even after they were declared in 1995 as tribals, they have still not been deleted from the list of Other Backward Classes as per information, available with the Commission. So, may be, they are enjoying the benefits under both. That probably is the situation because I find that they have not been deleted from either list, which otherwise should have been done. If the Ordinance is not converted into a Bill or an Act, I think, they will still continue to enjoy the status which they have been enjoying since 1975. The State List includes Rajbongshis or Koch as OBCs from 1975.

SHRI PINAKI MISRA: In your answer, you have said that in the State of Assam, the 'Rajbongshis' and 'Koch' have been listed as Other Backward Classes in relation to that State against Sl. No. 18 as notified by the Ministry of Welfare, Government of India, vide its Resolution dated 10.9.93.

SHRIMATI ASHA DAS: I am telling you that that is as a result of Mandal Commission where it has been declared that it is universally applicable everywhere. Prior to 1993, Koch or Rajbongshis, as they are listed in the List of 1975, which was issued by the State Government, have been recognised as Other Backward Classes from 1975, so far as the State of Assam is concerned.

SHRI PINAKI MISRA: Has your Commission no role to play in terms of classifying a group as OBC?

SHRIMATI ASHA DAS: No there is a Backward Classes Commission. So, we do not deal with the Backward Classes.

SHRI PINAKI MISRA: What is the composition of your Commission? How many members are there at the moment?

SHRIMATI ASHA DAS: We have the Chairman, the Vice-Chairman and five other members.

SHRI PINAKI MISRA: Your Chairman is Shri Hanumanthappa. Who is the Vice-Chairman?

SHRIMATI ASHA DAS: Shrimati Oomen Deori is the Vice-Chairman.

SHRI PINAKI MISRA: How many field officers you have all over India?

SHRIMATI ASHA DAS: We have 17 of them all over the country.

SHRI PINAKI MISRA: How many field officers you have in Assam?

SHRIMATI ASHA DAS: In Assam, there is only one field officer.

SHRI PINAKI MISRA: Do you not have four field officers in Assam?

SHRIMATI ASHA DAS: In Assam, we have just one office in Guwahati.

SHRI PINAKI MISRA: You also have offices in Shillong and Agarthala, apart from Guwahati. Is it not?

SHRIMATI ASHA DAS: But they are not in Assam.

SHRI PINAKI MISRA: Well, they are in the North-East region. How many field officers are working all over India?

SHRIMATI ASHA DAS: All the posts have not been filled up. We should have a Director at each place. The number of staff we have is not a very large number in any of the places. But even the ones which have been sanctioned, unfortunately, they have not been not filled up.

SHRI PINAKI MISRA: In the event a survey has to be done by the Commission, which you claimed you would like to do,...

SHRIMATI ASHA DAS: We have not claimed. We said that it should be done.

SHRI PINAKI MISRA: Well, you said that you would like to have a survey done.

SHRIMATI ASHA DAS: I do not think I have said that at all anywhere.

SHRI PINAKI MISRA: Has the Commission not made any study in this regard?

SHRIMATI ASHA DAS: Yes, we have been saying that we have not done a study.

SHRI PINAKI MISRA: What will you do in the event a study or a survey has to be done?

SHRIMATI ASHA DAS: I think, we will have to see who can do it. I do not think the Commission itself can do it unless it recruits somebody or gets some special powers for doing it. As of today, I do not even have the wherewithal.

SHRI PINAKI MISRA: That is why, I am asking you whether you have the wherewithal to do it. What we want to know is whether you have the power, in the first place, to conduct a study or a survey and, secondly, whether you have the wherewithal to do it.

SHRIMATI ASHA DAS: I suppose, we can do it.

SHRI PINAKI MISRA: Have you done such surveys or studies in the past?

SHRIMATI ASHA DAS: We did a lot of studies, not on the basis of castes totally, with regard to developmental aspects and some studies with regard to educational standards, which we are still conducting even with the limited staff we have. In any case, I am requesting the Government that we should be given funds and also the wherewithal to be able to commission studies.

SHRI DWARAKA NATH DAS: In Assam, you have your field officers. Do you have any report from the field officers regarding Koch and Rajbongshis?

SHRIMATI ASHA DAS: My field officer has not done any survey. I am aware that the Tribals Research Institute, which is located there, of the State Government has done some studies and they have also submitted a report.

SHRI DWARAKA NATH DAS: Have you gone through that report?

SHRIMATI ASHA DAS: Partially yes, Sir. I have not gone through in detail.

SHRI DWARAKA NATH DAS: Accordingly to that report, Koch and Rajbongshis belong to the tribal community.

SHRIMATI ASHA DAS: I have another report of 1992 which was initially given by the TRI in which they have recommended that they do not have any of the traits or features of a Scheduled Tribe and, therefore, they should not be declared as STs.

SHRI DWARAKA NATH DAS: They made a very detailed survey of it and, therefore, in 1995, in the subsequent report, they said that they belong to STs.

SHRIMATI ASHA DAS: I have read it. I do not think they have said that either Koch or Rajbongshis testify to having the traits. In fact, they say that, after taking into consideration all the relevant aspects, they find adequate justification for the inclusion of Koch-Rajbongshi-Kshatriyas, and all of them have been given with a hyphen in between, which means they are one particular community called by this long name. Unfortunately, even with the reports which we otherwise read or the enlisting which has been done, for example, in 1975 by Assam says 'Koch' or 'Rajbongshis'. In the list of 1993, where you are declaring them as Other Backward Classes, you say Koch/Rajbongshis, which means it is interchangeable. I really do not know what the report is trying to achieve. It is confusing.

MR. CHAIRMAN: In Assam, at that time, the report talked about tea garden workers. Even in your document also, there is a mention about tea garden workers. But there is no such tribe in India. It is a class only. The peculiar naming has been done by the Government or by the organisation itself. In respect of Koch-Rajbongshis also, similar is the case. Koch and Rajbongshis are separate communities in West Bengal; in Bihar, it is only Koch, and in Purnea and Kishanganj, Rajbongshis come under the general category.

SHRIMATI ASHA DAS: I agree with you. There are a lot of anomalies and a lot of confusion on the question of what status they deserve. If you ask my opinion, personally I would say that the entire thing needs to be reviewed, including the policies which we have changed every time, that is, removing area restrictions etc. You will find that certain communities, which in a particular area may be backward and satisfies the criterion which has been set for declaring them as a tribe or accepting them as tribes, does not really merit it if you come down the hills and see them functioning in other areas. You yourself raised certain questions, like what would be the fate of other tribals if they are accepted. Though

we do not have a very detailed data on it, I have just got a report from my staff yesterday where they have sent me a list of all the candidates who have been selected for medical institutes. There, we find that in the list of Scheduled Tribes (Plains) quota, out of 42 candidates, only nine fall into the category of nine communities which are recognised as Scheduled Tribes and the remaining 33 belong to Koch-Rajbongshi.

MR. CHAIRMAN: Is it an authentic report?

SHRIMATI ASHA DAS: Our field staff has given us a copy of the admission notice.

MR. CHAIRMAN: Is it a newspaper cutting?

SHRIMATI ASHA DAS: No, they have sent me a list of the admissions which has been given now. Probably, it may be from the newspapers, but this admission notice has been given by the Government. In any case, I would say that it will need much more investigation.

MR. CHAIRMAN: If such a news comes, it is a serious thing. In the North-Eastern States, we also have Universities and Institutes. We have to have authentic documents.

SHRIMATI ASHA DAS: We have the caste certificate. They have also sent us the copies of it.

MR. CHAIRMAN: Caste certificate is a different thing. You have to ask for an authentic report from the State Government.

SHRIMATI ASHA DAS: I think the State Government can give us the report. We can call for a report from the State Government. But my office has sent me a copy of that saying this is the situation. So, this is the situation. In fact, they have also written to us about this.

SHRI PABAN SINGH GHATOWAR: The Ordinance is already there. For some time, they have already enjoyed the benefit. Then, the Government of India again re-promulgated the Ordinance. The State Government also support it. The TRI has also given the recommendations. In view of this background, is there any specific suggestion from the Commission?

SHRIMATI ASHA DAS: What can I suggest? The only suggestion we have is that no community should be included or given the benefits without due enquiry and without ensuring that the communities deserve the benefits. In any case, if you go deeper into it, perhaps you will find that some undeserving people are taking away the benefit. As the Commission is really the custodian or guarantor of the protections which are given to various communities, we would certainly feel that the benefits which ought to accrue to the really deserving or the really backward people and the tribals should not be taken away by other people for reasons other than genuine demands.

SHRI PABAN SINGH GHATOWAR: That is one part of your duty. But the other part of your duty is to see that those people who are really tribals, having all the qualities are provided, for obvious reasons, the benefits meant for the tribals. The Commission has to look into that.

SHRIMATI ASHA DAS: That is exactly what we are saying. According to the data available as of today, with regard to Koch-Rajbongshis, we do not think and we do not see how they can be taken as tribals, in toto, on the basis of what is available. We feel that a definite, detailed enquiry on the basis of a survey etc. needs to be done because there are so many anomalies. As I mentioned, the North-Eastern States themselves formed part of one particular State earlier. Except for Arunachal Pradesh, I think the entire area used to be one

Assam State. Now, even within that area, you find the anomalies of Koch and Rajbongshis either being declared as Scheduled Caste or other Backward Classes. Except for a small part of Meghalaya, nowhere else they have been given that status. Why is the demand coming only now? It requires a deeper and greater study.

MR. CHAIRMAN: As a Commission, your job is to look into it. In Bihar the Koch and Rajbongshi people are not treated as OBCs or Scheduled Castes or Scheduled Tribes.

SHRIMATI ASHA DAS: Nowhere else they are treated so. There has been no demand so far as we are concerned.

MR. CHAIRMAN: So far as my knowledge goes, I remember that there was a demand in 1966 also. The Lokur Committee was there at that time.

SHRI PABAN SINGH GHATOWAR: In West Bengal and Tripura, the tea-garden workers are there. There is a general nomenclature given to them by the respective Governments. They are called as Oraon, Munda, Santal, Ho, Bill and Kharia. All are recognised as Scheduled Tribes. This has happened within five kilometres of Assam border. But in Assam, they are not recognised. We have the garden. We call Rampur as the border point. On that side, they are treated as Scheduled Tribes. But on this side, that is, in Assam, though they are engaged in the same profession, though they belong to the same community and same family, they are not recognised as Scheduled Tribes. Has the Commission any role to look into this matter?

SHRIMATI ASHA DAS: No. As of today, we do not have any role either in enlisting or deleting any one community out of the list which has been originally included in the Constitution or otherwise. According to the charter that we have, our role is basically advisory and the State Government is supposed to take our view before it finally adopts a particular policy or otherwise. The Commission, by itself, does not have a direct role or a direct responsibility for ensuring which one is included and which one is not. It is only when a certain action is being taken, we should be consulted.

SHRI DWARAKA NATH DAS: There is some anomaly. For example, in Tripura some tribal people are recognised as Scheduled Tribes and in Assam the same tribals are not recognised as Scheduled Tribe people. This anomaly is there. As I see it here, in Assam also there are several tribes like Boro-Kachari, Lalung, Rabha etc. They are yet to be recognised as Scheduled Tribes. I do not know what is the role of the Commission. Why is it not looking into the matter? Why have they been left out to be recognised as Scheduled Tribes?

SHRIMATI ASHA DAS: In our reply, the Commission has clearly stated what its role is. We are guided by Article 338 of the Constitution and the amendment to the Constitution under which we have been formed. It is not our direct responsibility to really go into it. It is not our duty to study whether any community has been neglected or not. But in any case, as we have mentioned in reply to some of the questions also, we do feel very strongly that there is a need to review it in respect of the entire country and establish which of them need to be included or excluded. We also feel that some machinery ought to be set up. It has to study the present status of those who are already included but whose status may have gone up. It has to further study whether they should be excluded or not. This aspect also needs to be studied because there are many more who are deserving, who need to be included, who need to get greater benefit from the small kitty that we have. If the better off people go on siphoning the benefits or the benefits given out of the programmes, which the Government, in its limited way, is able to give, at the fag end of the tunnel the benefits do not, very often, reach the people who really deserve them. We do feel that as and when people are

progressing, improving their status, they should be deleted from the list. There may be a case for including those who have not reached the status or who are not included or whose status may have deteriorated or who are overlooked.

SHRI DWARAKA NATH DAS: The reality is that in one State some caste is recognised as Scheduled Caste and in other States it is not recognised so.

SHRIMATI ASHA DAS: That would happen. There are many States where such conditions prevail.

SHRI PINAKI MISRA: Prior to the issue of this Ordinance which brings in the question of Koch-Rajbongshi, who were the other tribes who got the scheduled tribe status? What role does the Commission play there?

SHRIMATI ASHA DAS: The Commission has never been consulted. I do not think there has been any consultation.

MR. CHAIRMAN: Thank you. You can go now.

Witness Examined:

1. Dr. M. Vijayanunni, Registrar-General, India
2. Shri S.P. Sharma, Dy. Registrar-General
3. Shri M.K. Jain, Deputy Registrar-General

MR. CHAIRMAN: Shri Vijayanunni and friends, I welcome you to this sitting of the Committee. This Select Committee has been formed to make a detailed scrutiny of this Constitution (Amendment) Bill.

(Direction 58 Read Out)

MR. CHAIRMAN: I would request you to be very free and frank before this Committee while replying.

MR. CHAIRMAN: We have given you the questionnaire and as per that questionnaire, we will ask for replies.

First of all, can you tell us, how many of the recommended communities have been listed in the ST list of Assam. Have you got the list with you?

DR. M. VIJAYANUNNI: Sir, there are 14+9, that is, 23 recommended communities.

MR. CHAIRMAN: Regarding Koch-Rajbongshi, the Ordinance came up in November 1995. Before that whether the Government of India or the Government of Assam made you any request regarding Koch and Rajbongshi in the State of Assam?

DR. M. VIJAYANUNNI: We have not received any request in census, because in census we enumerate only those which are already notified as Scheduled Castes or Tribes. All other population is general population. Till now, we have not had the occasion to enumerate Koch and Rajbongshi separately.

MR. CHAIRMAN: Do you have any record?

DR. M. VIJAYANUNNI: It was in 1931, when the last caste-wise census was taken.

MR. CHAIRMAN: As per that record, what is the figure of Koch and Rajbongshi?

DR. M. VIJAYANUNNI: Subsequent to that, in 1951 at the request of the Backward Classes Commissioner at that time, the figures available and intimated to the Commission was like this.

Sir, my colleague Dr. M.K. Jain will elaborate on this.

DR. M.K. JAIN: Sir, we have provided separate estimates for Koch and Rajbongshi. For Koch it was 3.89 lakh in 1951 and for Rajbongshi, it was 1.55 lakh. So, the total will be about 5.44 lakh.

MR. CHAIRMAN: What is the ratio of population?

DR. M. VIJAYANUNNI: It will be about just under 10 lakh now.

SHRI PINAKI MISRA: What is its percentage to the overall population?

DR. M. VIJAYANUNNI: The total population of Assam as on 1951 was 224 lakhs. So, we can give its proportion accordingly.

MR. CHAIRMAN: What was the total population of Koch community in Meghalaya before 1991?

DR. M. VIJAYANUNNI: For Koch it is 3,89,898 and for Rajbongshi it is 1,55,398 as on 1991.

SHRI UDHAB BARMAN: Meghalaya was with Assam in 1951.

MR. CHAIRMAN: Have you got the figures of Koch and Rajbongshi communities in West Bengal?

DR. M. VIJAYANUNNI: Yes, Sir.

SHRI PABAN SINGH GHATOWAR: It should be under 10 lakh, at present.

DR. M. VIJAYANUNNI: Sir, the population of Koch community in West Bengal was 9,714 and the Rajbongshi community was 22,58,760. This was as on 1981.

MR. CHAIRMAN: In Bihar have you got any list of that community?

DR. M. VIJAYANUNNI: We do not have it because it is not notified.

MR. CHAIRMAN: Only if it is notified you will get it.

DR. M. VIJAYANUNNI: Yes, Sir. Then only in the census it will be separately enumerated.

MR. CHAIRMAN: What is the position regarding the *ethnographic literature*?

DR. M. VIJAYANUNNI: There also no figures will be available as no studies have been made.

MR. CHAIRMAN: There was some in between 1931 and 1950.

DR. M. VIJAYANUNNI: Not after 1931. We do not have the authentic figures for any community for that matter.

SHRI PINAKI MISRA: I think the fundamental issue that has to be addressed by your office before this Committee is the complete *volte-face* that you have done between 1981 and 1995. You gave one set of recommendations in 1981 and mysteriously on no apparent new material on record, suddenly there is a *volte-face* and you have given the no objection letter. What is the reason?

DR. M. VIJAYANUNNI: Actually in 1981 it was based on the literature available. As per the literature available provided, it did not support the view that this community satisfies all the conditions for declaring it as a tribe. But it was not without any reason that the

subsequent change was made. The Ministry of Welfare referred the report forwarded by the State Government of Assam to us and asked the matter to be re-examined in the light of that report. That report is based on the field studies conducted. Not only the literature or what is available on paper, but also the field study conducted by the Tribal Research Institute. They have come to the conclusion that this community satisfies the conditions required for declaring it as a tribe. We have gone through that report. Since it is a field study and contain additional information that was not available in 1981, a view was taken. Actually the Registrar General's office does not have any statutory or mandatory role. When the Ministry of Welfare refers these cases to us for remarks, we give our remarks and the recommendations are based on the literature available by going through the past information and any other available literature.

SHRI PINAKI MISRA: You do not have any wherewithal to carry out any independent survey or study?

DR. M. VIJAYANUNNI: We do not conduct any field studies, Sir.

SHRI PINAKI MISRA: You will basically go by the reports which are placed before you.

DR. M. VIJAYANUNNI: We go by the literature which is available. A lot of references have been made. A number of communities have been referred to us for our views. Based on the literature we have given our views. Now there was something new. It was not as if both our recommendations are based on the same material without applying our mind. When a field study report comes and a lot of material is there, they have given many things like the number of matriculates and graduates, the number of people who have the Government jobs etc. and have even give the numbers. Whether that base is adequate or not is another question, it is a matter of opinion. But all these information are there.

The five major characteristics which distinguish backwardness as far as tribes are concerned are: indication of the community by distinctive culture, geographic isolation, shyness of contact with the community at large and backwardness. These are the identified criteria for determining the backwardness. Regarding all these criteria we have given our views, plus we have the information gathered by the State. They have said that taking into consideration all the relevant aspects they find adequate justification for the inclusion of Koch-Rajbongshi in the list of the Scheduled Tribe of Assam. As the Registrar General and the Census Commissioner we went through the report, we did not have any material to controvert or contradict the conclusion made in the report. If we have to take a different view, there must be substantial material.

SHRI PINAKI MISRA: Now in 1996 again you are qualifying your stand. You are saying that now there seems to be a further sub-classification. "In order to avert such a situation, adequate safeguard should be taken in the notification itself by making it explicit. That only those members of Koch-Rajbongshi Scheduled Tribe who belong to the distinct tribal groups will be treated as members of Koch-Rajbongshi and not the entire Koch-Rajbongshi as a whole".

DR. M. VIJAYANUNNI: Anyone can describe himself as a Koch-Rajbongshi.

SHRI PINAKI MISRA: Why did not qualify this in 1995?

DR. M. VIJAYANUNNI: In 1995 this point did not arise. The point was our remarks on the Assam Institute's field study report. They asked us to re-examine it and give our replies. This was the Welfare Ministry's specific request. So, we have confined ourselves to that particular aspect.

PROF. JITENDRA NATH DAS: The report itself is not complete as yet.

SHRI PABAN SINGH GHATOWAR: You have very limited scope. One study is not enough to get an objective opinion. They have recommended one thing and basing on one report you are giving your no objection. You could not compare it or do anything. In earlier cases also in all other inclusions did the Government of India refer to you or did it happen only in this case?

DR. M. VIJAYANUNNI: There have been other cases also in the past where they have asked for our specific opinion and we have given our views.

MR. CHAIRMAN: In 1985 the Koch community of Meghalaya came in the tribal list. Have they informed you of this and sought your views?

SHRI PABAN SINGH GHATOWAR: I want to ask one simple question. The population as a whole in Assam increased four fold and in the case of Koch-Rajbongshi you said that it has just doubled. What is the reason?

DR. M. VIJAYANUNNI: This figure is just an indication based on the overall growth rate of population in the whole of India and not of Assam alone. In Assam itself it had a higher growth rate. It was only in response to a question we have given this figure. That cannot be taken as a basis for any other purpose. We should not take it because that is the biggest controversy also. When we are going into the question of specific cases they cannot be taken at the same rate as the general population growth rate. There may be very wide differences in the growth rates from caste to caste. This is just an indication. If we take that rate, this will be the figure. I think for all our purposes we should not take that sort of a growth rate.

MR. CHAIRMAN: Thank you very much.

(The Witness Then Withdrew)

(j/1620/tkd)

Witness Examined:

1620 hours

1. Shri K.K. Bakshi, Secretary, Ministry of Welfare.
2. Shri A.K. Choudhary, Joint Secretary, Ministry of Welfare.
3. Dr. R.K. Srivastava, Director, Ministry of Welfare.
4. Shri P.L. Yadav, Research Officer, Ministry of Welfare.

MR. CHAIRMAN: Shri Bakshi and other colleagues, you are welcome before the Select Committee on the Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996.

As you know, one big problem is faced in Assam whether Koch and Rajbongshi communities should be treated as Scheduled Tribes or not. At that time, the Ordinance was there. But the question is whether they will be known as tribes or not and that is to be decided by the Committee.

As you know, Koch Rajbongshi has a peculiar history. In West Bengal 'Koch' and 'Rajbongshi' are treated as two separate communities and as Scheduled Castes; in Tripura the Koch Rajbongshi community is treated as a Tribe; in Meghalaya they are known as a Tribe; and in Assam, we call them OBC. In Bihar there are some Koch Rajbongshi communities, but they are treated neither as Scheduled Castes nor as Scheduled Tribes and nor as OBCs.

(Direction 58 Was Read Out)

MR. CHAIRMAN: I would like to introduce the Members of the Committee to you and would also request you to introduce your colleagues to the Committee.

(Introduction)

MR. CHAIRMAN: Shri Bakshi, would you please enlighten us as to why you have come to the conclusion at last that this Koch Rajbongshi community should be treated as Scheduled Tribe for which purpose you issued orders? Please give some details.

SHRI K.K. BAKSHI: Sir, I will have to begin with the ordinance of 27th January, 1996, the first of the ordinances. Before that the decision-making process concerns — as I see it — to different segments. Article 342 of the Constitution of India requires that initially there should be the Presidential Order and then subsequently the Central Government consultation would be with the State Government concerned. The State Government had, at its service, the Assam Institute of Research for Scheduled Castes and Scheduled Tribes. So the Central Government had before it the opinion of the Assam Government backed by the findings and recommendations of the Assam Institute of Research for Scheduled Castes and Scheduled Tribes. Sir, the Central Government, the other party and the party that ultimately has the powers to notify after Parliament has approved it, had at its service the Registrar General of India which has a lot of expertise, a lot of data and published material as well as the census figures and is concerned directly and overwhelmingly with the census operations. Here also, prior to the issuance of the first ordinance of 27.1.1996 the Central Government has the opinion of the Registrar General of India. Now, all these opinions coalesced in favour of declaring the Koch Rajbongshi community of Assam as a Scheduled Tribe. That is the position as it evolved prior to 27.1.1996. Earlier, of course, as revealed in the answers to the questionnaire and in the questionnaire itself, the positions had differed. There had been a different opinion expressed by the Assam Institute of Research for Scheduled Castes and Scheduled Tribes. Earlier there has also been a different opinion expressed by the Registrar General of India. But when it came to the issuance of the first ordinance all the different opinions had coalesced in favour of giving S.T. status and that is the backdrop and that is the reason for Central Government issuing the ordinance in the first instance.

MR. CHAIRMAN: I want to know whether you have sent information to any State that you are going to have an ordinance stating that the Koch and Rajbongshi communities will be treated as Scheduled Tribes. Have you consulted the National Commission for Scheduled Castes and Scheduled Tribes in the past? Just like this Dalit Christians Bill have you sent any information to them? What is their opinion? Have you received their opinion?

SHRI K.K. BAKSHI: Sir, at the time of consideration, that is before the issuance of the first ordinance of 27.1.1996 the Ministry of Welfare did not consult the National commission for Scheduled Castes and Scheduled Tribes. It did not.

(1/1630/San)

MR. CHAIRMAN: Do you think it mandatory or not?

SHRI K. K. BAKSHI: Now, the perception is that we should consult. At that time, the opinion was that it was not necessary to consult the Commission.

MR. CHAIRMAN: Is there any constitutional obligation?

SHRI K.K. BAKSHI: It is a matter of interpretation.

MR. CHAIRMAN: What is your interpretation?

SHRI K.K. BAKSHI: I would prefer to consult. My reading of 65th Amendment Act of 1990 as of today is that it is necessary to consult them.

MR. CHAIRMAN: why did you not consult them?

SHRI K.K. BAKSHI: At that time, the opinion was that it was not absolutely necessary and, till then, no reference had been made to the National Commission for Scheduled Castes and Scheduled Tribes on matters like this.

MR. CHAIRMAN: Since 1995 onwards, there is no such constitutional amendment, particularly of Article 343 or 342.

SHRI K.K. BAKSHI: References have begun to be made now. As you just observed, the Dalit Christian matter, the Commission itself wrote to the Government saying that in their view such consultation was necessary. Subsequent to that, such consultation is being made. Before that, it was not made.

MR. CHAIRMAN: What would be the position of this Bill?

SHRI K.K. BAKSHI: It is before the highest body of the land. After deliberations, the highest body of the land will decide. At this stage, I would submit that it is hardly possible to consult the Commission as it has already been referred to Parliament. It is a very odd situation. I personally feel that we cannot refer it to them now.

SHRI PINAKI MISHRA: I want to know whether the Ministry of Welfare gave any recommendation to the Government at the time of issuance of first Ordinance in 1995. How did you theorize before the Government at that time.

Now, your opinion is that it would not be advisable to include them as Scheduled Tribe. From the replies given to the queries, it is quite clear that the Ministry itself is not overwhelmingly in favour of giving them Scheduled Tribe favour.

SHRI K.K. BAKSHI: I personally feel how difficult this matter we found at that time and we still find. I would further submit that my reading of it is not that we find the Ordinance wrong. What we are trying to say is that it is an exceedingly difficult question. As I said in my opening statement, the basis for deciding the issue at that time was the opinion of the State Government and opinion of the Central Government such as was available which coalesced in favour of declaring the Koch-Rajbongshi people as Scheduled Tribe. I would again submit that the Ministry of Welfare does not find the Ordinance wrong. It only explains how difficult it is, especially in view of the fact that has now come out in the questionnaire. There are several questions which raise issues which were not known or gone into at that time when the Ordinance was issued. One is the matter raised about Medical College at Dibrugarh in question nine. Naturally, it has emerged out of the situation created by the Ordinance. These things were not known at that time. We have not been able to verify it as yet. We have written to the Chief Secretary of Assam, but we have not got any reply as yet.

SHRI PINAKI MISHRA: In reply to question 8, you have said in para 8(a) that there is an apprehension that if Koch-Rajbongshi is included in the list of Scheduled Tribes of Assam, they will get the sizeable share of benefits. So, there is an apprehension means you advise against it. In the event the apprehension fructifies into a reality, it is not going to be conducive to the better health of the people of Assam. It is quite clear that your advice is against it.

(m/1635/rc)

SHRI K.K. BAKSHI: Sir, it is not my submission. I only want to point out how excruciatingly difficult the whole question is. While replying to Question No. 8, we had already read the Question No. 9 and the matters like this came up in our minds.

SHRI DWARAKA NATH DAS: You are saying that it is very difficult. But at the same time you are telling that Koch-Rajbongshi should be treated as Tribes. With what justification are you saying this?

SHRI K.K. BAKSHI: Sir, these views have been expressed by the Registrar-General of India here at the Central level. The Government of Assam has also expressed its views on this and it has recommended for their inclusion. As I have already submitted, Article 342 of the Constitution clearly gives a very major role to the State Governments and the State Government have very clearly opined in favour of it.

SHRI DWARAKA NATH DAS: But so far as the National Commission on Scheduled Castes and Scheduled Tribes is concerned, they think otherwise.

SHRI K.K. BAKSHI: Sir, the National Commission have not expressed any opinion on it to us. We know that this Committee had heard the views of the representatives of the National Commission. But we do not know what transpired. But the National Commission have not expressed any opinion on the subject to the Government.

SHRI PABAN SINGH GHATOWAR: We know that the State Government has recommended for the inclusion of Koch-Rajbongshi. The Government of India has also agreed on this point and had issued an Ordinance. Now this Bill has been referred to this Committee. According to the representations received by this Committee, almost 99 per cent of the tribal organisations are opposing the inclusion of Koch-Rajbongshi community. But it has already been done through the Ordinance and some of them have also enjoyed its benefit as one or two persons got elected to the Assembly. Now, what will be the role of the Ministry of Welfare? It is because almost 70 per cent work has been done in this direction. The State Government had also recommended for their inclusion and the Central Government had also agreed on that. Now, what will be your role?

SHRI K.K. BAKSHI: We are hopeful that Parliament will give us a direction and that is what we are waiting for. In the meantime, we have called for the information from Assam.

MR. CHAIRMAN: If the Bill is not passed in the House, then what would be the fate of those people who have already been benefited by it? As you know, one MLA has already been elected and some students have got admission in the medical colleges and other post graduate colleges under this provision. Now what will be their fate?

SHRI PABAN SINGH GHATOWAR: The Chairman has rightly said that they have got admissions as Scheduled Tribes. If they apply for the jobs after the lapse of Ordinance, what will be their fate as they would no longer be treated as Scheduled Tribes?

SHRI K.K. BAKSHI: Sir, we will have to go to Cabinet and if necessary the Cabinet will have to go to Parliament for a prescription in order to rectify the situation or for sorting out the kind of problems that have arisen.

SHRI PABAN SINGH GHATOWAR: In between these two Ordinances, such a situation arose for some time. So, the Government has gone for this second Ordinance.

SHRI PINAKI MISRA: I would also like to draw your attention to the answers to

Q. Nos. 5 and 6. It stems from the excruciatingly difficult decision that your Welfare Ministry has taken.

SHRI PABAN SINGH GHATOWAR: The Welfare Ministry definitely must have taken a view, if not a decision on this.

SHRI K.K. BAKSHI: Sir, you have appreciated the very difficult situation that we find ourselves in.

DR. PRABIN CHANDRA SARMA: The percentage should not be the demarcating line for considering a particular community as SC or ST. The entire population in a State may belong to ST category. So, the percentage of the population should not be the criteria to become an SC or ST.

MR. CHAIRMAN: The percentage is necessary at the time of recommendation. If we recommend that these communities should be treated as tribes or castes, then the percentage will be necessary. But may I ask as to where from did you get this figure of 16.22 lakhs?

SHRI K.K. BAKSHI: I have a very small submission to make. It is actually 15.22 lakhs, whereas we have reported it as 16.22 lakhs. It is a typing error for which I deeply apologise.

MR. CHAIRMAN: How did you calculate this?

SHRI K.K. BAKSHI: I will explain. The Government of Assam took the 1951 figures and made their calculations and projected 15.22 lakhs as the approximate figure applicable today.

DR. PRABIN CHANDRA SARMA: Shri Bakshi, are you sure that a census was done in 1951 with regard to SCs/STs, and particularly in regard to Koch-Rajbongshi community people?

SHRI K.K. BAKSHI: I am a little puzzled by this fact because I know that the 1931 and 1941 Census figures showed caste-wise and community-wise for the entire population. After Independence, I also know that we have dispensed with the practice of recording caste and community figures for those who do not come within SC/ST category. But our report shows that the Government of Assam have estimated the community's population on the basis of the estimated population figure in 1951 furnished by the Registrar-General of India. It means that the Government of Assam took the estimated figures in 1951 and then further estimated and extrapolated for 1991.

SHRI PABAN SINGH GHATOWAR: In 1961, Meghalaya was part of Assam and they have a large of Koch community, who were recognised as tribals.

DR. PRABIN CHANDRA SARMA: It is so not only in Meghalaya but in the entire North-Eastern region. Shri Bakshi, do you have the Census report for Koch community in the State of Assam, at any time before 1951?

SHRI K.K. BAKSHI: Those reports would be available with the Registrar-General of India.

DR. PARBIN CHANDRA SARMA: I think, there was a census in 1901. It should have been probably recorded.

DR. ARUN KUMAR SARMA: In the answer to Q.No. 8, you have mentioned that certain modalities are being worked out. What are those modalities and what is the basis

for it? You have also mentioned that some of the State Government had requested for the exclusion of certain Communities. Can you tell us which are those communities which have to be excluded and which are the State Governments which asked for it?

SHRI K.K. BAKSHI: The answer to question 3(a) and (b) is like this. It is just an example. There are six communities mentioned there which are: Tea & ex-Tea Garden Communities, Chutiya, Garo, Tai Ahom, Matak and Moran. These have all been recommended by the Government of Assam. There is a slight variation. The recommendation for the Garo Community came in a separate reference and the other five came with the same kind of recommendations. But the major part of your question, as I understand it, is what is the Government and the Ministry of Welfare doing about the various pending cases and the recommendations made. We have 1290 applications which are pending. Those applications are pending before the Government of India at this time. They are in respect of the entire country. The plea is for either inclusion or in a just few cases, for exclusion or for modification of various kinds including some element which will be duplicated also. There have been so many applications and there is no decision yet. So, there would be some element of duplication.

To resolve this problem various attempts have been made over the decades. I think they are known to your honour also. In 1965, the B.N. Lokur committee had made some recommendations. Then in 1967, a Select Committee of Parliament went into it and in 1969 that Committee gave some recommendations. Then, the consideration went on. But in December 1970, the Lok Sabha was dissolved and a new Lok Sabha was elected. The matter was taken up again. After some time, it continued. To cut a long story short, there have been Groups of Ministers and recently there was also a Group of Secretaries to look into these things. But no formula has yet emerged. Now, we are making one more attempt to evolve a mechanism for taking decisions. We are going before the Cabinet. The main ingredients would be like this: the Central Government has the Registrar-General of India for advice as well as data; and subsequent to the Dalit Christian matter, the National Commission for Scheduled Castes and Scheduled Tribes is another expert body which can give its opinion. From the States side, we have the State Governments, of course. All the State Governments have the Tribal Research Institute or any other specialised institution at their disposal.

MR. CHAIRMAN: At the national level, you have no Tribal Research Institute? Am I correct?

SHRI K.K. BAKSHI: We do not have any Institute. That is a great pity. We would like to have it. But so far, we have not got it. We have nothing. There is no apex level institution for this purpose.

DR. PRABIN CHANDRA SARMA: Probably, you could have recommended to the Government of India for the creation of such an institution because it is necessary. When we are considering a matter at the national level, if there is no national research institute for such tribes, then who will give us the opinion? Ultimately, everything will have to come before Parliament for decision.

DR. ARUN KUMAR SARMA: There are six communities in Assam which are proposed to be included. I would like to know whether you have got any opinion from the RGI. They communities are: Tea & ex-Tea Garden Communities, Chutiya, Garo, Tai Ahom, Matak and Moran.

SHRI K.K. BAKSHI: Not for all of them. It is a matter of detail. We will have to go through the records. But we have opinions on some and not on some others. It is a continuous process. Of the 1290 cases that I just mentioned to you, in respect of some, we have opinions. We have all the opinions of the State Governments also. But in respect of some others, we have the Registrar General of India's opinion. In some cases, opinion is not there. In some cases, the opinions of the State Governments and the Registrar General of India tally. In more cases, they do not tally.

In some other cases either the Registrar General of India's opinion is pending or the State Government have been asked to clarify something. It has happened in the Koch-Rajbhongshi case. Initially the Government of Assam changed its mind and recommended the Koch-Rajbhongshi community for inclusion as Scheduled Tribes. With this, they had also given a copy of the view of the Assam Institute, which went more against it than in favour. Then, we again during 1993 end asked the Assam Government to clarify the situation because the opinions of the Assam Institute of Research and that of the Assam Government were not tallying. Then in 1994, the Assam Government replied to us again, giving revised opinion of the Assam Institute of Research. And, that time, their opinions were tallying.

Similarly, in 1290 cases which are pending with us, there are some cases where the opinions of the State Government and the opinions of their own specialised Tribal Research Institute do not tally on many points and there are certain discrepancies. Those have been referred back for clarification.

MR. CHAIRMAN: For Assam, you have mentioned about Tea and ex-Tea Garden Communities.

In our view, they are not the caste community. They are the class community. In the tea gardens, so many classes are working. They are the employees. There may be class III, Class IV employees also.

SHRI K.K. BAKSHI: It is their claim that they have marked caste characteristics.

MR. CHAIRMAN: How can you say this? We have come across a Brahmin who is working in the tea garden. Do you think that he should also be treated as a Tribe?

In West Bengal also there are tea communities. As Shri Paban Ghatowar has rightly said, there are Kumargandhba communities also working in the tea gardens and the other like communities.

SHRI PABAN SINGH GHATOWAR: Here also they have constituted Bharat community. The Government of Assam has also got a list. So, it is a wrong nomenclature going on, that those who work in the tea gardens are called tea garden labour. I think, those people mostly are of the Scheduled Castes or Scheduled Tribes region in the other places.

SHRI K.K. BAKSHI: That is their claim.

MR. CHAIRMAN: For Garo community, there is no problem but what is this Tea and ex-Tea Garden Community?

SHRI K.K. BAKSHI: The claim is that they had migrated from other States and they were mainly tribal communities. And, in some cases, they were what we now call Scheduled Tribes communities.

DR. PRABIN CHANDRA SARMA: Whether they are classified as Scheduled Castes or Scheduled Tribes or some other communities from their sources of origin.

SHRI K.K. BAKSHI: The complicating feature here is that the Assam Institute of Research has recommended it.

I will just explain what is going to be done. You have given us a clue about 1901 census. The figures of 1881 census were not very accurate. 1901 census was probably the first reasonably accurate census. So, 1891, 1901 onwards, those figures will be checked by the RGI to see whether they showed a community caste of tribal configuration or whether that is a recent phenomena. So, that question would be open yet.

DR. PRABIN CHANDRA SARMA: Mr. Bakshi, I would like to have clarification on one more point.

The number of communities coming under Scheduled Castes and Scheduled Tribes is gradually increasing. The list is becoming longer.

Do you think that there is a basis for this! Since the time of our Independence, the list of Scheduled Castes and Scheduled Tribes is gradually increasing.

DR. PRABIN CHANDRA SARMA: Do you have the date Statewise with break-up as to how many communities have been included as SC and ST in all the different States as on date? If you have, kindly give us a copy of each of the SC and ST from each of the State, including the total number of people they have as on today of that particular community.

SHRI K.K. BAKSHI: This is a little elaborate exercise, if I may submit. We can compile the data. The problem is about the numbers.

DR. PRABIN CHANDRA SARMA: You have to get it from the census because only in Assam that census has not taken place for two different periods. Otherwise the census has taken place in all other parts of the country.

SHRI JITENDRA NATH DAS: There are other people in my constituency working as tea garden labour and ex-tea garden labour. There are Brahmins and there are OBCs also. How can you say that the tea-garden community is a new caste and that it is an ST or an SC? It is a class community.

SHRI PABAN SINGH GHATOWAR: I belong to the same community. Earlier also the Joint Select Committee, A.C. Chanda Committee and the Lokur Commission also have gone into the matter. They have recommended that the person in these communities get an umbrella name. Those who are SC and ST in their places of origin should be recognised as such. Those who are working in the tea gardens are also recognised in West Bengal and Tripura. I do not think that will be difficult if you give the name of the community. A Brahmin elsewhere is a Brahmin in Assam also. If a Santhal or a Munna or people of other community is there all over India, they can be recognised as STs. But there cannot be one name. We have disputed it in the case of the tea garden community. There are coffee plantation workers. They are not known as coffee plantation workers. There are sugarcane plantation workers also. But they are known as sugarcane workers community. But here, it is something which has come right from the Britishers time. They used to be called Coolie previously. In the same time period from the central province people were taken upto Mauritius, Fiji, Assam, West Indies to serve the Britishers who were there. These people were taken as bonded labour because they cannot leave the tea gardens. These things have to be looked into.

MR. CHAIRMAN: Would it be possible for you to send us the names of the tea garden workers?

SHRI K.K. BAKSHI: We will get the information. How much time would the hon. Committee give us? Because we will have to collect it from at least two sources; one from Dispur and the other from the Registrar General of India. May be, I am anticipating things. There is a Research Institute in Assam and they can help us in this matter and we will also get the Registrar General of India's figures. I do not know if I should explain what I think might be the case. It is just a conjecture. Most probably the tea garden labour were called by different names earlier. This is what the studies of the Assam Research Institute and the Registrar General of India's records show. They were called by other names also. Coolie may have been one title. There may have been other titles. As some point of time they have been clubbed together as tea garden labour, a phenomenon which has taken place.

SHRI PABAN SINGH GHATOWAR: But nobody writes them as tea garden community. They have their own communities. They write Munda, Oraon, etc. So it would not be difficult to find out from that community name as to who are the tribal people. That will be in the list as the place of their origin, specially in Bihar, Orissa, Madhya Pradesh and West Bengal. Already they have submitted the lists and that can be verified also.

MR. CHAIRMAN: Koch and Rajbongshi communities are enjoying the double benefits. They are still enlisted as O.B.C.

SHRI K.K. BAKSHI: After the promulgation of Ordinance and the notification of their being included in the Scheduled Tribes list, simultaneously, their names were removed from the O.B.C. list. So, they do not enjoy the facilities of the other backward classes. That is removed.

DR. ARUN KUMAR SHARMA: I have two specific questions. The Committee is facing some confusion.

Firstly, there are some tribal groups in Assam which are recognised as tribals in the hilly areas and they are not recognised as tribals in the plain areas. In the reverse way, some of the tribals are enjoying the tribal status well, whenever they are in plain, but whenever they go to hills, they do not get the status of Tribes. So, the Committee has been requested to examine that matter also from different representations. It is a very vital problem. It may not be only in Assam, like the tribal status vary from State to State and within the State between the hilly areas and plain areas. How will we go about it and what is your opinion in this regard?

Secondly, the existing tribal population, excluding the Koch Rajbongshi, have a fear psychosis that their interests will be jeopardised. The privileges will be enjoyed mostly by the Koch and Rajbongshi communities because they could compete to take away most of the reserved seats in the educational institutions. In that case, is it possible for inclusion of Koch and Rajbongshi as a separate category of tribe without jeopardising the interests of the existing tribal groups? What is the opinion of the Ministry?

SHRI UDDHAB BARMAN: Koch and Rajbongshi communities were included in OBC list. Now, they are neither OBC nor Tribal, particularly when there was no ordinance. There is a reservation quota in Assam for OBC about 15 or 16 per cent or something like that. My colleague, Dr. Sarma's suggestion that while creating some quota for reservation, can you suggest that we can deduct something from the OBC quota?

SHRI K.K. BAKSHI: My simple submission is that this matter is within the purview of the Department of Personnel and they would consult the State Government before they

come to an opinion. The filling of Group 'C' and 'D' posts, even for Central Government Undertakings, in the State of Assam would be heavily influenced by the pattern of reservations in the State of Assam. So, this question is concerned with the Department of Personnel and Training in conjunction with the Government of Assam. I regret, we just cannot offer any opinion in this regard.

SHRI UDDHAB BARMAN: There are some opinions that we can deduct this quota from O.B.C.

DR. PRABIN CHANDRA SHARMA: I think the reservation can be further increased beyond 15 per cent. What is the reservation percentage as on today?

SHRI K.K. BAKSHI: Sir, it is 11 per cent for the Scheduled Tribes in Assam. The total is 50 per cent in terms of Supreme Court judgment. It cannot exceed 50 per cent.

SHRI UDDHAB BARMAN: Shri Bakshi, you have already opined that practically the Welfare Ministry, before the ordinance, did not consult the National Commission for S.C. and S.T. We are told that practically the Commission looks after the interests of the existing S.Cs and S.Ts. regarding the Government policies etc. They are not to give opinion whether to exclude or include anybody as a Scheduled Caste or Scheduled Tribes. You preferred discussion with the National Commission of S.C. and S.T. regarding the complexity of the situation, I am of the opinion that this should be consulted. There is an opinion emerging throughout the country that there should be some consultation with the Registrar General of India and the National Commission of S.C. and S.T. At the same time there should be a distinct institute for going into the research work regarding the problems of the tribals. I think some sort of mechanism should be evolved taking into consideration the problems of the S.C. and S.T.

SHRI K.K. BAKSHI: Sir, my first attempt at an answer is like this. Section 9 of the Constitution (65th Amendment) Act, 1990 — which is an Act of Parliament that brought into existence the National Commission of S.C. and S.T.— reads:

“The Union and every State Government shall consult the Commission on all major policy matters affecting the S.C. and S.T.”

SHRI UDDHAB BARMAN: It is for the existing communities.

SHRI K.K. BAKSHI: I would humbly submit that it is on policy matters affecting S.C. and S.T. It is a question of interpretation of his particular Section. In 1996, at the time of first ordinance, apparently this particular Section was taken not to mean that consultation is absolutely essential whereas today after the Commission have raised the point it is considered that it is necessary. Before that the Central Government did not consult the Commission and apparently it was not considered absolutely essential. Today's reading is that it is necessary because of the opinion expressed by such a powerful body created by Parliament and also on a fresh reading of this Section.

As regards the second part, I think we would be greatly aided and very much benefited by an apex level institution for tribal research. We just do not have such an expert body to give opinion.

SHRI PABAN SINGH GHATOWAR: I do not want to say it. Shri Sharma rightly suggested that a Committee of Parliament should look forward to opinion from an expert body. I am not giving any expert opinion. But still, in some corner, some biased report may

come for some obvious reasons. It will be better if there is an expert body to examine the issue. There must be a tribal institution at the national level.

SHRI ARUN KUMAR SHARMA: Sir, I will appreciate if he answers to my first question.

MR. CHAIRMAN: Shri Bakshi, I will tell you one thing. One community migrates from the hills to the plain. Some other community like the Bodo community is treated as Scheduled Tribe in the plains but not in the hills. It is the case with others. Can you say something on this?

SHRI PABAN SINGH GHATOWAR: Have you got ready reply or you have to examine it?

DR. PRABIN CHANDRA SARMA: In the reply, it has been categorically mention plain's tribes and hill's tribes. When hilly people come to plains, they are neither included as tribe in the planes nor included as tribe in the hills.

SHRI K.K. BAKSHI: We have attempted to reply to that in question number 16 on page 11 of the reply. It says that listing of communities as Scheduled Tribes is done on the basis of the criteria prescribed for the purpose since relative social, economic and other characteristics of a community differ from area to area within a State. The Scheduled Tribe communities have been specified area-wise. The concept of autonomous districts and other areas (excluding autonomous districts) is also based on exclusive areas included in Article 91 of Government of India Act, 1935. Even our present Ordinance, which is there till 2nd April unless Parliament otherwise decides, covers Koch-Rajbongshi community in the non-autonomous districts of Assam. The Cachar hills and Karbi Anglong are not covered.

DR. PRABIN CHANDRA SARMA: It is not the question of autonomous districts. There are some parts of the State which are not yet autonomous but even then, there are some tribal people. They live in hills. Even when they live in the plains originally, they will not be treated as tribe. Simultaneously, some tribal people, irrespective of whether they live in the autonomous districts or not, when they want to live in the plains, they will not be treated as tribe. That is the main problem.

SHRI PABAN SINGH GHATOWAR: Suppose a person who lives in Karbi Anglong district is employed by the Government of Assam and settled down in Guwahati. The next generation is also there in Guwahati. In such a case, they cannot get a certificate in Guwahati even though his father was a Government employee for 35 years and had a house in Guwahati. Only to obtain certificate, he has to go to Karbi Anglong. If he does not go there, he will not get the certificate. For the pupose of marriage and other social functions, they are of the same family and tribe.

SHRI K.K. BAKSHI: It is done area-wise and not community-wise.

SHRI PABAN SINGH GHATOWAR: It is all right for other places. I am specifically talking of Assam. It is so in Assam.

SHRI UDDHAB BARBAN: In Karbi Anglong, there are Karbi people. Karbi people living in the plains are not taken as people of Karbi Tribe.

SHRI K.K. BAKSHI: The Scheduled Tribe Order, as it exists, shows Assam in two compartments. First is adtonomous districts where there are 14 tribal communities out of which one of them has many sub group e.g. Ani-kuki tribe. For Assam, excluding

autonomous districts, we have nine tribal communities given in the order as far as this classification goes.

So far as obtaining a certificate is concerned, they can get it in Guwahati itself but the only thing is it will have to be verified.

DR. PRABIN CHANDRA SARMA: Even today, they have not given it. These people have lost all the privileges.

SHRI K.K. BAKSHI: Surely, Sir, if they have in their possession, a certificate given in the original district, the District Magistrate or the designated authority can issue a certificate to them quoting the earlier certificate and saying that on the basis of earlier certificate given by Deputy-Commissioner, Karbi Anglong, this certificate is given.

SHRI DWARKA NATH DAS: But they are not giving it.

DR. PRABIN CHANDRA SARMA: Normally, they live in the plains but when they go out of the hills, they suffer as they are not given the status of the tribals.

SHRI K.K. BAKSHI: Sir, this is something, we will have to look into. We do not have any ready information about it.

SHRI ARUN KUMAR SARMA: Similar problems are faced by the tribals in other areas also.

Sir, we know there are problems. Take for example Sardar Sarovar project. Now, a lot of people have been displaced from Madhya Pradesh and Maharashtra as well as from Gujarat. The Gujarat evacuees are being re-settled in Gujarat. Many people from Madhya Pradesh and Maharashtra are preferring to settle in Gujarat because they are getting good package of land and services. Now many of them are tribals. But these tribes may not have equal benefits in the State of Gujarat. That problem will arise. They may not lose their status but this will have to be verified as per the classification and the records for full benefits.

MR. CHAIRMAN: Could you please enlighten us on one point? Now, there is seven per cent reservation for SCs, 15 per cent for STs and 17 per cent for OBCs in Assam. it makes a total of 39 per cent. But we can extent it up to 50 per cent. So, a provision of 11 per cent is still there. If we want to extent it up to 50 per cent, would it require your section or the Department of Personnel. What is the position regarding education?

SHRI K.K. BAKSHI: Sir, the Department of Personnel is the concerned Department for reservations. As far as education is concerned, it would be dealt with by the Department of Education, Ministry of Human Resource Development.

MR. CHAIRMAN: But if a recommendation comes for giving reservation up to 50 per cent, what would be your opinion on that?

SHRI K.K. BAKSHI: Sir, we would obey it very gladly.

MR. CHAIRMAN: Thank you very much.

(The Committee then adjourned).

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