

**COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES**

**(2002-2003)**

**(THIRTEENTH LOK SABHA)**

**TWENTY SECOND REPORT**

**Fair Employment Policy for Scheduled Castes and Scheduled Tribes in Public and Private Sector – a review of position following globalisation and other reform measures.**

**Presented to Lok Sabha on 22.11.2002**

**Laid in Rajya Sabha on 22.11.2002**

**LOK SABHA SECRETARIAT**

**NEW DELHI**

**November, 2002 / Agrahayana, 1924 (Saka)**

**CONTENTS**

- **COMPOSITION OF THE COMMITTEE**
- **INTRODUCTION**
- **REPORT**
  - (a) New Industrial Policy.
  - (b) New Economic Policy.
  - (c) Socio-Economic impact of the new policy.
  - (d) Safeguards for the interest of SCs/STs
  - (e) Applicability of reservation orders after disinvestment
  - (f) Speech of Hon'ble President on the eve of Republic Day, 2002
  - (g) Bhopal Declaration
  - (h) National Commission to review the working of Constitution.

**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2002-2003)**

Shri Ratilal Kalidas Varma - Chairman

**MEMBERS – LOK SABHA**

2. Shri Anandrao Vithoba Adsul
3. Shri Mahendra Baitha
4. Shri Padmanava Behera
5. Prof. Dukha Bhagat

6. Shri Kanti Lal Bhuria
7. Shri Anand Mohan Biswas
8. Shri Shriram Chauhan
9. Shri Shamsher Singh Dullo
10. Shri Jarbom Gamlin
11. Shri Manikrao Hodlya Gavit
12. Shri Thawar Chand Gehlot
13. Shri Rajaiah Malyala
14. Shrimati Jas Kaur Meena
15. Shri Kailash Meghwal
16. SH. S.K. Bwiswmuthiary
17. Shri Rupchand Murmu
18. Shri Pravin Rashtrapal
19. Shri Bajubhan Riyan
- 20..Shri Ramji Lal Suman

**MEMBERS – RAJYA SABHA**

21. Shri Anil Kumar
22. Shri Gandhi Azad
23. Dr. (Ms.) P. Selvie Das
24. Dr. Faguni Ram
25. Shri R. Kamaraj
26. Shri Sukhdev Singh Libra
27. Shri Raju Parmar
28. Shri V.V. Raghavan
29. Shri Shyam Lal
30. Shri Birabhadra Singh

**SECRETARIAT**

1. Shri P.D.T. Achary – Additional Secretary
2. Shri Ram Autar Ram – Joint Secretary
3. Shri Krishan Lal – Director
4. Shri K. Jena – Assistant Director

## **INTRODUCTION**

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Twenty Second Report (Thirteenth Lok Sabha) on the subject “Fair Employment Policy for Scheduled Castes and Scheduled Tribes in Public and Private Sector – A review of position following globalisation and other reform measures.”

2. The Committee took evidence of the representatives of the Ministry of Social Justice and Empowerment, Ministry of Disinvestment, Ministry of Tribal Affairs, Ministry of Heavy Industries and Public Enterprises, Ministry of Finance (Department of Economic Affairs – Banking Division) and Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) on 14<sup>th</sup> March, 2002. The Committee wish to express their thanks to these Ministries/Departments for placing before the Committee, material and information the Committee desired in connection with the examination of the subject.

3. The Report was considered and adopted by the Committee on 24<sup>th</sup> July, 2002.

4. A summary of conclusions/recommendations contained in the Report is appended (Appendix).

**RATILAL KALIDAS VARMA**

**Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes**

**New Delhi**

November, 2002 - Agrahayana, 1924 (Saka)

b/jogi/New Original Report private sector

## **NEW INDUSTRIAL POLICY**

1. The Committee have been informed that the new Industrial Policy announced in July 1991, besides liberalisation of economy and globalisation, also aimed at building upon the gains achieved, to correct the distortions, maintain a sustained growth in productivity and gainful employment and attain international competitiveness. It envisaged pursuit of these objectives to be tempered by the need to preserve the environment and ensure the efficient use of available resources. All sectors of industry whether small, medium or large, belonging to public, private or cooperative sectors were to be encouraged to grow and improve on their past performance. The New policy also encompasses encouragement of entrepreneurship, development of indigenous technology through investment in research and development, bringing in new technology, dismantling of the regulatory system, development of the capital markets and increasing competitiveness for the benefit of the common man. The spread of industrialization to backward areas of the country will be actively promoted through appropriate incentive, institutions and infrastructure investments. While recognizing the role of public sector, the new policy seeks to ensure that the public sector is run on business lines envisaging privatization, disinvestments and public sector restructuring. The Committee have also been informed that in pursuit of the above objectives, it was decided to take a series of initiatives covering the following areas:

- (a) Industrial Licensing
- (b) Foreign Investment
- (c) Foreign Technology Agreements
- (d) Public Sector Policy
- (e) MRTP Act (Monopoly and Restrictive Trade Practices Act)

## **NEW ECONOMIC POLICY**

2. When asked about the impact on the socio-economic conditions of various sections of the society of the economic policy, the Committee were informed that under the new economic policy, the role of the Government and Public Sector are getting redefined. Requirement of manpower of the Government Department is being reassessed and fresh recruitment in Government Departments and institutions is kept limited to the minimum essential needs.

3. In the Budget Speech for 2001-02, it has also been indicated that all requirement will be scrutinized to ensure that fresh recruitment is limited to 1% of total civilian staff strength. As about 3% retire every year, this will reduce the manpower by 2% per annum achieving a reduction of 10% in five years as announced by Prime Minister.

## **SOCIO-ECONOMIC IMPACT OF THE NEW POLICY**

4. As regards the economic impact of the new policy, it was stated that the new industrial policy is aimed at development of the national economy as a whole. As a result of this policy, there have been changes in the foreign investment, industrial development, infrastructure development as well as reforms in the financial sector and public sector. In the Budget speech for 2001-02, it has been stated that economic reforms began in 1991, the economy has grown at an average rate of 6.4% per a year since 1992-93 in comparison to 5.8% recorded in the 1980s. Further, poverty had shown declining trend from 36% in 1993-94 to 26% or less now. While no specific information is available on the impact of the new economic policy of the Government in the improved conditions of the Scheduled Castes and Scheduled Tribes in particular, the new policy has led to higher rate of growth of the economy. It is expected that the SCs and STs might have also been benefited as a result of these new economic reforms.

5. The Committee have also been informed that according to Department of Economic Affairs, in view of the economic reforms in 1991-92, the country has recorded a growth rate of 6-7 per cent annually. Though this is an improvement over the previous decade it is still inadequate to reduce the backlog of the country's poor masses and common man. Economic reforms are aimed

at accelerating the GDP growth, particularly in sectors which are important for employment generation. Acceleration in growth of employment in various sectors is possible only if the country registers a minimum GDP growth rate of 8 to 9 percent per annum. Socially disadvantaged groups such as Scheduled Castes (SCs), Scheduled Tribes (STs) Other Backward Classes (OBCs) and Minorities have received special focus over the years. Various programmes for welfare and development of SCs, OBCs and Minorities are implemented by the Ministry of Social Justice & Empowerment. For STs the Ministry of Tribal Affairs was set up in October, 1999 exclusively to attend to the needs of tribal population keeping in view their special needs and problems. The financial institutions viz. National Scheduled Castes and Scheduled Tribe Finance and Development Corporation (NSFDC), National Backward Classes Finance and Development Corporation (NBCFDC) have been strengthened by enhancing their authorised share capital with the aim of improving their performance and coverage.

6. It was also clarified by the Ministry of Tribal Affairs that as regards the Scheduled Tribes, the purpose of economic liberation is to put resources to the social sector from the Industrial and other sectors where Government was investing on a large scale. With private sector funds coming into industrial and other infrastructure development sectors, the Government would be in a better position to invest more in the social sectors like health, education, rural development, drinking water supply and other social activities. This increased allocation to the social sectors will be beneficial for the Scheduled Caste and Scheduled Tribes and they will be able to get better coverage in health, education, drinking water supply etc. from the Government budgetary resources.
7. When asked to explain whether profit making public sector undertaking are being disinvested, the Department of Disinvestment in a written note have stated that the decision of the Government for disinvestments of its equity in any public sector enterprises is governed by the declared disinvestment policy. This policy of the Government is applicable to all public sector enterprises, irrespective of the fact whether it is profit making or loss incurring. As stated in the Budget speech for the year 2000-2001, the disinvestments policy of the Government, applicable to the public sector enterprises in the non-strategic sector, is to bring down the Government equity to 26% or below in the generality of cases. IN cases of public sector enterprises involving strategic considerations, Government will continue to retain major holding.
8. The Committee have also been informed that the public sector enterprises have been classified as strategic and non-strategic as indicated below:
  - (i) The Strategic Public Sector Enterprises would be those in the areas:
    - Arms and ammunitions and the allied
    - Atomic energy (except in the areas related to the generation of nuclear power and applications of radiation and radio-isotopes to agriculture medicine and non-strategic industries).
    - Railway transport.
  - (ii) All other public sector enterprises would be non-strategic. For the non-strategic Public Sector Enterprises, the reduction of Government share to 26% would not be automatic and the manner and pace of doing so would be worked out on a case-to-case basis. A decision in regard to the percentage of disinvestments i.e. Government share going down to less than 51% to 26% would be taken on the following considerations:
    - (a) Whether the industrial sector as a countervailing force to prevent concentration of power in private hands, and
    - (b) Whether the industrial sector requires a proper regulatory mechanism to protect the consumer interests before Public Sector Enterprises are privatised.

### **SAFEGUARDS FOR THE INTEREST OF SC/STs**

9. On being asked as to how the constitutional safeguards provided to SCs and STs would be ensured under the changing circumstances, the Department of Personnel and

Training replied that the intake of persons belonging to SC/ST is governed by the number of posts in any cadre. If the cadre strength changes, the number of posts reserved for SCs & STs will change accordingly. Following the judgement of the Supreme Court in R.K. Sabharwal's case, the number of vacancies is no longer relevant except to the extent that the proportion of SC/ST in the intake, in any year, cannot exceed 50% except in the case of backlog vacancies. In a situation where serving staff in the Government/PSUs and autonomous bodies are rendered surplus, personnel belonging to the SC/ST will not be rendered surplus, until consequent upon their being discharged as surplus, percentage of reservation in service/grade/posts falls below the prescribed level of 15% and 7.5% for SC/ST, respectively.

10. Clarifying further the Ministry of Heavy Industries and Public Enterprises stated that Article 16(4) provides for reservation of appointments or posts in favour of any backward class of citizens, which in the opinion of the State is not adequately represented in the services under the State. Decreased in Government's equity/share capital in Central Government owned Public Sector Undertakings will not alter the position as long as they retain the character of 'State' as defined in Article 12 of the Constitution. With this in view, in the cases of disinvestments involving transfer of management control, appropriate provisions are made in the share-purchase agreement and the shareholders agreement with the strategic partner. Even after disinvestments in the shareholder's agreements being signed not only were the interests of the existing workers being protected, a 'best endeavour' clause was being incorporated to persuade the new managements to accord the importance to the reservation policy of the Government. Typically, the agreements include a recital stating that the strategic partner recognizes that the Government in relation to its employment policies follows certain principles for the benefit of the members of the Scheduled Castes/Scheduled Tribes, Physically Handicapped persons and other socially disadvantaged sections of the society and that the strategic partner shall use its best efforts to cause the Company to provide adequate job opportunities for such persons. The initiative however would be with the private management.
11. On being asked what steps are being taken to ensure that the interest of SCs/STs are not adversely affected due to retrenchment of staff in PSUs, it was stated that the restructuring of public sector organizations are based on the economic viability of such enterprise. If an enterprise is not economically viable, retrenchment of the staff is to be undertaken as per the statutory provisions. Instructions exist to the effect that in the context of retrenchment of staff, SC/ST employees should not be included in the list of employees to be retrenched from a grade so long as the total number of SC/ST employees in that grade has not reached the prescribed percentage of reservation for SC/ST respectively in that grade.

#### **APPLICABILITY OF RESERVATION ORDERS AFTER DISINVESTMENT**

12. As regards applicability of reservation orders after sale/disinvestment the Department of Disinvestment, have informed the Committee that the job reservation orders etc would remain in force in such cases of disinvestment where the company remains a Government company and where transfer of management control is not passed to the strategic buyer. In cases of strategic sale with transfer of management where the company no longer remains a Government Company, it would be governed by the provisions of the Companies Act as applicable to similar companies, as also by the terms and conditions of strategic sale. Reservation issues for non-Government companies, once public sector enterprises are privatised, are broad national issues. The Department of Disinvestment is of the view that the provisions being made in the Shareholders agreement and the Share Purchase Agreement are adequate to safeguard the interests of various sections of employees.
13. With regard to adverse affect on employment opportunities for SCs & STs after privatisation of some Public Sector Undertakings, the Department of Disinvestment in a written reply has intimated that when the decision of the Government relating to disinvestments of a unit involves the transfer of management and control of the company, issues relating to employees are appropriately addressed in the terms and conditions of sale, in consultation with the prospective bidders.
14. On the point of extending reservation for SCs/STs in private sector companies including multinational companies as well as contemplating to bring legislation to protect the interest of SC/ST employees in Private Sector, the Committee have been informed that



according to the advice of the Attorney General, reservation in the Private Sector will not be permissible under Article 16(4) of the Constitution. No data regarding representation of SCs/STs in the private organized sector is available. According to Ministry of Finance, (Department of Economic Affairs), they are not in favour of extending reservations in the private sector because of its far-reaching implications as it would adversely affect the objective of the new industrial policy to attain international competitiveness.

15. The Committee, during the evidence, enquired about reservation position in those Institutions where disinvestment/privatisation is being done such as BALCO & Modern Foods etc. The Secretary, Department of Disinvestment replied as under:-

“So far as private companies are concerned we have made provision. As you have asked about BALCO, it is provided in the recital that parties envision that all employees of the Company on the date hereof will continue to be in the employment of the company.....”

16. The Committee further asked if the Government change their policy in future then what will happen to the SCs/STs? The representative further added:-

“The Government have some policies about strategic partners. There is a clause about reservation. The strategic partner will make its best efforts to continue those policies. We cannot bind them, because in law there is no provision for reservation in Private Sector, even then they will follow this policy. It involves change of policy. Reservation in Private Sector is a constitutional question.”

17. When the Committee wanted to know whether there is any legal binding over the strategic partners when they do not implement reservation orders of SCs/STs and what steps are proposed by the Government in that situation. The Secretary, Department of Disinvestment clarified;

“Since the provision regarding reservation is for the Government and subsequently the Public Sector, therefore, for Private Sector Companies which are defined in our law as those companies which have a Public Sector share of 50 + 1, the moment you go below 50, that policy does not apply.”

18. Taking into consideration of immense potential in Private enterprises, the Committee had examined the issue of extending reservation for SCs and STs in Private Sector as early as in 1975 in their 41<sup>st</sup> Report (5<sup>th</sup> Lok Sabha) and they had recommended as follows:-

“employment potential under the Private Sector is immense and there is a vast scope for absorption of Scheduled Castes and Scheduled Tribes therein. Even though Government had requested the Employers’ Organisations to take up with their constituents the question of stepping up the employment of Scheduled Castes and Scheduled Tribes, there has been no response from them worth the name. Since the private sector employers have not performed the duty expected from them in this regard, the Committee recommend that Government should compel the private sector employers by law to follow the reservations for Scheduled Castes and Scheduled Tribes in all cases where the Government give them assistance in any form including grant of loans, land, licences or other facilities.

The Committee in their 18<sup>th</sup> Action Taken Report on the above Report (Sixth Lok Sabha) had also reiterated its earlier recommendation and has also desired that legislation should be enacted to give effect to their recommendation.

19. Later on, in the year 1992 the Committee again examined the subject relating to Reservation for SCs and STs in Private Sector Employment. Their main recommendations in 4<sup>th</sup> Report (10<sup>th</sup> Lok Sabha) are recapitulated below:-

- (a) ensuring that the reservation policy in employment covering the government and public sector is extended to cover all new employment opportunities in that segment of economic activity which is handed over to the private sector by the Government.



- (b) extending the reservation policy in all such industrial service and trading organizations, which receive any type of assistance from the Government in the shape of loans from financial institutions, subsidies from the Central and State Governments, concessions in the form of land allotment or other incentives from the Government.
- (c) ensuring that any retrenchment of the staff working in the Government and public sector organisation as a consequent of the new economic policy or economy measures, does not adversely affect the interest of SC/ST and render the employees belonging to these categories unemployed.

## **SPEECH OF HON'BLE PRESIDENT ON THE EVE OF REPUBLICDAY 2002**

20. The Committee have pointed out that while addressing the nation on the eve of Republic Day, 2002, the Hon'ble President of India, Shri K.R. Naryanan praised the Indian democracy, but on the other, he argued that its success would be relevant only if it is reflected in the social milieu. For achieving the same, he emphasised upliftment of the deprived classes, which according to him comprised specifically of women and dalits. A part of his speech is reproduced below:-

“the discrimination being suffered by women, the Scheduled Castes and Scheduled Tribes is a crying denial of the democracy that is enshrined in our Constitution. Recently a conference was held in Bhopal of Dalit and tribal intellectuals and activists. They issued a declaration called the Bhopal Declaration charting out a new course for Dalits and the tribal people for the 21<sup>st</sup> century. After calling for the implementation of the policies enshrined in our Constitution for their development, the declaration emphasizes the importance in this present era of privatization, of providing for representation for these deprived classes, not only in Government and public institutions but in private corporations and enterprises which benefit from Government funds and facilities. Indeed in the present economic system and of the future, it is necessary for the private sector to adopt social policies that are progressive and more egalitarian for these deprived classes to be uplifted from their state of deprivation and inequality and given the rights of citizens and civilized human beings. This is not to ask the private enterprise accept socialism but to do something like what the Diversity Bill and the affirmative action that a capitalist country like the United States of America has adopted and is implementing.

My fellow citizens, I have talked to you about these social questions because if our great democracy is to remain great and relevant to the problems of the masses, we will have to pay heed to these crying socio-economic issues. With such attention to the problems affecting the masses of our people, our country will be strong and powerful to pursue the policy of peace and co-existence that we have followed in the world, especially with regard to our neighbours in the sub-continent and in Asia.”

## **BHOPAL DECLARATION**

21. The Hon'ble President specifically referred to the Bhopal Declaration adopted at the conference of Dalits and Tribal intellectuals held on 12-13 January, 2002 in the capital of Madhya Pradesh. The said declaration inter alia include following points:-
- (i) Make the reservation quota applicable in all the public and private educational institutions from primary to technical and professional levels.
  - (ii) Ensure diversity or SC/ST's due representation in all public institutions of India, whether universities or academic or autonomous or registered bodies.
  - (iii) Make affirmative action mandatory in all private institutions, including industries and corporate sector, which receive state patronage in any form from land at concessional rate to tax benefits etc. and also develop the capacities and skills of Dalits to help them meet the demands of these different sectors.

## NATIONAL COMMISSION TO REVIEW THE WORKING OF CONSTITUTION

22. The committee also point out that National Commission to Review the Working of Constitution (NCRWC) in its report has also reiterated the need to extend reservation in private sector. The panel said “Government should step in firmly and clearly to bridge the gap between private prejudices camouflaged in the name of “efficiency” on the one hand and the just aspirations of the SC,ST and BC including BC Minorities and Women on the other.”
23. The Committee point out that the Government should have looked around to see how the Government in other countries have tackled similar problems. In the developed countries like America, they have the policy to encourage by affirmative action to elimination of discrimination because of race, creed, colour or national origin in employment on work involving federal financial assistance, to the end that employment opportunities created by Federal funds shall be equally available to all qualified persons which is mentioned in Civil Rights Act of 1964.
24. As back as on March 6, 1961, American President John F.Kennedy issued Executive order which established the President’s Committee on equal employment opportunity. The order required federal government contractors to “take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, creed, colour or national origin.” This was the first time that the phrase “affirmative action” which had been used in another act in the context of redressing unfair labour practices, was linked to civil rights enforcement policy.
25. In the United States of America, to eradicate discrimination in employment, there are two separate federal organizations, namely (i) the President’s Committee on Equal Employment Opportunity established in 1961, and (ii) the Equal Employment Opportunity Commission(EEOC) created under Civil Rights Act of 1964. Even though a non-statutory body, the President’s Committee has been endowed with wide spread responsibility and powers clearly defined from the very beginning. The Commission is empowered to direct the Head of each Department or agency to take affirmative action to implement the equal opportunity policy of the nation. The Commission of Equal Employment Opportunity is a statutory body having jurisdiction on all Government employers, including federal, state and local entities and their sub units, private employers, employment agencies, education institutions and labour organisations. It is a standing Parliamentary Commission which has to submit an annual report to the Congress and to the President. It has been endowed with full investigating powers and powers to refer matters to the Attorney General and to enforce compliance of a court order. Under most EEOC enforced laws, compensatory and punitive damages are also available where intentional discrimination is found. Damages may be available to compensate for actual monetary losses, for future monetary losses and for mental anguish and inconvenience.
26. In addition to the two aforesaid federal organisations, there is Special Fair Employment Practices Commissions functioning in the various states of the USA. They are the administrative machinery for the enforcement of the State Laws prohibiting discrimination in employment. They function more or less in the pattern of the Federal Commission.
27. The Committee note that in regard to the question of extending reservation and fair employment policy for SCs and STs to private enterprises/sector, particularly in respect of those enterprises who receive government grants and loans or other assistance, the government have stated that according to Department of Personnel and Training the matter was examined in consultation with the Attorney General of India who advised that “reservation in private sector will not be permissible under Art. 16(4) of the Constitution and will be violative of the equality provisions in the constitution.” In the opinion of the Committee this Article has not been interpreted properly and correctly because Article 16(4) does not debar reservation for SCs and STs subject to specific provisions made for reservation for certain classes of the Socieity. The Committee are, therefore, seriously concerned over the unfavourable attitude of the Government for not extending national policy of reservation for SCs and STs in private sector and the Government, in the era of globalisation/disinvestment is still depending on the solitary advice of the Attorney General on such a vital matter of public importance and constitutional provisions. The

Committee, therefore, strongly recommend that the Government should change their policy and seriously reconsider the matter of providing reservation in private sector also in the changed scenario of the Indian economy keeping in view the significant contribution made by these communities in the nation building. The Government must evolve a mandatory condition the agreement for adequate representation for SC and ST in the jobs while disinvesting any Government Institutions for making Private Sector for safeguarding the interests of SC & ST in jobs as guaranteed in the constitution.

28. The Committee may only presume that after privatisation of the public sector companies, the strategic partner will make best efforts to continue policies of the Government, but in fact that the Government cannot bind the private sector to provide reservation to SCs/STs because there is no law for reservation in private sector companies. The Committee are of the view that there is a veil difference between the private sector and a particular unit which was a public sector till recently and now converted into private sector because of disinvestment policy of the Government. Though it has become a private sector unit yet it is not fully private because of Government's share in the company. The Committee are of the strong opinion that reservation in private sector should be made a legal binding by entering into an agreement between Government/public sector and private sector in the Memorandum of Understanding at the time of disinvestment, so that the basic element of reservation should remain there, which is the constitutional right of the people belonging to SCs/STs. The Government should not, so simply, transfer the money of the people invested in a public sector to a third party without protecting the right of SCs & STs. The Committee desire the Government to ensure that the reservation policy in the public sector is continued even after converting it into a private sector after disinvestment.

29. The Committee note that where the investment in a particular Public Sector/Company goes below 50% then it becomes Private Sector Company and over all control goes into the private hands. The Committee feel that the problem crops up because of reduction of the share of Government below 50%. The Committee, therefore, after examining the pros and cons of this aspect recommend that the Government should not disinvest its share below 51 per cent so that the control remains in the hands of the Government. By doing this, the claim of whole galaxy of SC/ST people in the Public Sector will remain intact. The Committee observe that the infrastructural facilities like railways, posts, telegraph, water, electricity, National Highways etc are provided by the Government and without the help of these facilities it is not at all possible to carry out any business/Industrial service/Trading in Private Sector. The Committee, therefore, recommend, that reservation policy for SC and STs should be extended to all such Industries/Trading Organisations which receive any type of such assistance from the Government in addition to loans from financial institutions/Banks, subsidies from Central and State Governments, land allotment or other facilities/concessions received from the Government.

30. The Committee also note that though there is no provision of reservation in private sector, a recital has been included in the disinvestments process which is as follows:-

“The strategic partner (SP) recognizes that the Government in relation to its employment policies follows certain principles for the benefits of the members of the SCs, STs, Physically Handicapped persons, those in the other socially disadvantageous categories of society. The SP shall use its efforts to cause the company to provide adequate jobs for such persons. Further, in the event of any reduction in the strength of the employees of the company, the SP shall use its best effort to ensure that the physically handicapped persons, Scheduled Castes and Scheduled Tribes are retrenched at the end.”

The Committee are of the opinion that inspite of above recital there is no guarantee that private sector shall implement it in letter and spirit. The Committee, therefore, recommend that whenever retrenchment of the staff working in the Government/Public Sector organisation becomes inevitable due to new economic policy/disinvestments, it should not adversely affect the interest of SCs/STs for rendering them unemployed. Moreover, some mandatory provisions should be made in the terms and conditions with the strategic partners so that SCs & STs should not face economic and social problems.

31. The Committee are of the opinion that it would be naïve to think that only an act could make reservation in private sector mandatory coupled with the fact that, the zeal of the implementing authority is also of vital importance. The Committee, therefore, observe

that casual approach has been made by the Government to abide by Committee's earlier recommendations made in this regard in their 41<sup>st</sup> Report (5<sup>th</sup> Lok Sabha) and 4<sup>th</sup> Report (10<sup>th</sup> Lok Sabha). The Government are not seems to be serious in respect of these recommendations which is deeply disturbing and a matter of grave concern to the Committee. It is also evident from the Republic Day Speech of the Hon'ble President of India, Bhopal Declaration, Report of National Commission to Review the working of the Constitution etc. Keeping in view the overall prevailing circumstances at present, the Committee strongly recommend that enactment should be done to bring private/public sector under gamut of the reservation provisions as well.

32. The Committee are surprised to note that whenever a question of implementation of reservation order arises, the concerned Ministries tries to shift their responsibilities on each other's shoulders. During the evidence, when the issue of implementation of reservation orders by the State Government arose, the representative of DOPT replied as under: -

“.....We do not have any legal power to tell the State Government what to do with their employees.”

On being questioned whether DOPT is only for the Government of India, the witness further clarified:-

“.....We are DOPT for Government of India. We are not DOPT for the State Government. We can play an advisory role.....” We have issued circulars issued by the Government of India to all the State Governments” we have received requests for clarification.....we are in the process of clarifying it.....”

He further clarified “ ... we impress upon all the circulars. It all depends on the State Government that how promptly they implement it.....”

The Committee feel that there is total lack of coordination/Liaisoning among Department of Personnel and Training, Ministry of Social Justice & Empowerment, Ministry of Tribal Affairs and the State Governments. The Committee are pained to learn that there is no Central Authority at the moment to exercise its authority to ensure that the intake of the SCs & STs is as per the Government of India reservation orders. In Committee's view, in case of any doubt/dispute in regard to implementation of reservation orders arises, instead of shifting responsibility by one Department to another, concrete and concerted efforts should be made to solve the problem. Further, the Committee is of the strong opinion that in the absence of any nodal Ministry for monitoring and coordination of implementation of reservation policy, the very purpose of reservation policy for SCs and STs has been getting defeated in the whole country in all the sectors. The Government should designate only one Ministry which should be a nodal Ministry to look after proper implementation of reservation orders. The Committee further recommend that there should also be a Central law to regulate the implementation of reservation policy for SCs & STs in all the State Governments, Ministries, Departments of the Government of India, Public Sector Undertaking and Private Sector.

**RATILAL KALIDAS VARMA**

Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes

New Delhi

November, 2002

Agrahayana, 1924 (Saka)