

SCTC NO.824

COMMITTEE ON THE WELFARE OF  
SCHEDULED CASTES AND  
SCHEDULED TRIBES

(2018-2019)  
(SIXTEENTH LOK SABHA)

THIRTIETH REPORT  
ON

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

Thirtieth Report on the Annual Reports of National Commission for Scheduled Castes(NCSC) presented under Article 338(5)(d) of the Constitution of India and the measures that should be taken by the Union Government in respect of matters within the purview of the Government

Presented to Lok Sabha on 12.02.2019

Laid in Rajya Sabha on 12.02.2019



LOK SABHA SECRETARIAT  
NEW DELHI

February, 2019/ Magha, 1940 (Saka)

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## **COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2018-2019)**

**Dr. Kirit P. Solanki - Chairperson**

### **MEMBERS - LOK SABHA**

2. Smt. Anju Bala
3. Dr. Ravindra Babu Pandula
4. Shri Kanti Lal Bhuriya
5. Shri P.K. Biju
6. Shri B.N. Chandrappa
7. Dr. Heena Vijay Gavit
8. Dr. K Gopal
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10. Shri Faggan Singh Kulaste
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12. Smt. Pratima Mandal
13. Shr Dr. Ajmeera S. Naik
14. Shri Ram Charitra Nishad
15. Shri Ram Chandra Paswan
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17. Shri Vishnu Dayal Ram
18. Shri Krupal Balaji Tumane
19. Shri Vikram Usendi
20. Shri Bhanu Pratap Singh Verma

### **MEMBERS – RAJYA SABHA**

21. Shri Shamsher Singh Dullo
22. Shri Ahamed Hassan
23. Shri P.L. Punia
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25. Shri Amar Shankar Sable
26. Shri Mahant Shambhuprasadji Tundiya
27. Shri Ramkumar Verma
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29. Shri Veer Singh
30. Shri Bhanu Pratap Singh Verma

### **SECRETARIAT**

1. Shri T.G. Chandrashekhar	-	Joint Secretary
2. Shri D.R. Shekhar	-	Director

## **INTRODUCTION**

I, the Chairperson, 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 Thirtieth Report (Sixteenth Lok Sabha) on the subject "Examination of annual Reports of National Commission for Scheduled Castes(NCSC) presented under Article 338(5)(d) of the Constitution of India and to report as to the measures that should be taken by the Union Government in respect of matters within the purview of the Government pertaining to the Ministry of Social Justice and Empowerment.

2. The Committee took evidence of the representatives of the Ministry of Social Justice and Empowerment on 10.07.2018 and 28.11.2018
3. The Report was considered and adopted by the Committee on 11.02.2019
4. The Committee wish to express their gratitude to the officers of the Ministry of Social Justice and Empowerment for placing before the Committee the material and information the Committee required in connection with the examination of the subject.

**New Delhi;  
February, 2019  
1940(Saka)**

**DR. KIRIT P. SOLANKI  
Chairperson,  
Committee on the Welfare of  
Scheduled Castes and  
Scheduled Tribes**

**REPORT**  
**CHAPTER-I**  
**INTRODUCTION**

**A. Ministry of Social Justice and Empowerment and National Commission for Scheduled Castes(NCSC)**

1. Ministry of Social Justice and Empowerment was set up in 1998. The Department of Social Justice under this Ministry has three Commissions working under it.National Commission for Scheduled Castes(NCSC), National commission for Backward Classes(NCBC) and National Commission for Safai Karamcharis(NCSK).NCSC was established under Article 338 of the Constitution. The main functions of the Commission are

- *To investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;*
- *to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;*

**B. Overview of Finances of NCSC.**

2. The expenditure for the NCSC in the Union Budget is reflected under the Ministry of Social Justice & Empowerment which is a voted expenditure. This Commission is a Constitutional body set up under Article 338 of the Constitution and has also been given the powers of Ministry/Department of the Govt. of India under Ministry of Home Affairs . Hence, it has been felt that it stands to reason that the Commission should have a separate and independent budget head and demands for grant. The Commission has to refer to and take sanction/approval to the Ministry of Social Justice for even small things like engaging consultants or data entry operators. But, the Ministry of Finance has not agreed to the proposal for a separate “Demand for Grants” for the Commission, mentioning inter-alia , that the budgetary outlays of Ministry of Social Justice and Empowerment or the NCSC are not so large to warrant a separate Demand for NCSC. Creation of separate „Demand for Grants” for comparatively smaller Departments/Constitutional bodies etc. would not only lend proliferation of Demands but also change the very complexion of budget documents.

NCSC has a separate DDO for carrying out its payment functions the system of provisioning the outlays of NCSC through Ministry of Social Justice and Empowerment will not in any way adversely impinge on the financial independence of the NCSC.

**C. Allocation for Welfare of Scheduled Castes(AWSC)**

3. The Department of Social Justice and Empowerment has been entrusted the task of monitoring the financial as well as physical progress of all the schemes under the Allocation for Welfare of Scheduled Castes(AWSC, originally SCSP) component for all the concerned Central Ministries and Departments. Besides the above, the Department has also collected the State (SCSP) data from the States and it is proposed to appraise the State SCSP plan along with the scheme of SCA of SCSP run by the Department of Social Justice and Empowerment. The allocation and expenditure under the AWSC for the last three years is as under:

Year	Budget Estimate(crore)	Actual Expenditure(crore)
2015-16	30850.88	30603.70
2016-17	38832.63	34333.63
2017-18	52392.55	46376.11

**D. Judicial Powers of NCSC**

4. Article 338 states that “the Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause(b) of clause (5), have all the powers of a civil court trying a suit. The Commission has noted that this status of NCSC is limited to that of summoning and enforcing attendance of any person including examination of witnesses under oath and examining documents and has no other powers of a civil court. The observations made by the Commission are being treated as advisory in nature. The Commission has recommended to the Government that it should be suitably empowered so that it can effectively function and oversee that safeguards to SCs are guaranteed under the Constitution are implemented in letter and spirit. On this recommendation, the Ministry of Law & Justice, Department of Justice has informed that the Hon,ble Supreme Court of India in appeal(Civil) 13700 of 1996 in the matter of All India Indian Overseas Bank SC &

ST Employees Welfare Association and Others vs. UOI & Others in its judgement dt. 31.10.1996 has made it clear that in clause 8 of Article 338, the words used are "the Commission shall have all the powers of a Civil Court "have to be exercised "while investigating any matter referred to in Sub-clause(a) or inquiring into any complaint referred to in sub-clause(b) of clause 5." The Ministry of Law has also opined that for ensuring the adequate safeguard for all the SCs, there are sufficient efficacious remedies available by way of SC/ST (Prevention of Atrocities) Act, 1989, as well as granting of reservation in the Government service and admissions in educational institutions. Since, the Chairperson, Vice-Chairperson and other Members as well as even the Secretary of the Commission are not qualified members of the judiciary, hence they will not be able to apply legal jurisprudence while performing the functions as judges. It has therefore been opined that there was no need of amending the Constitution for the purpose of providing full power of Civil Court to the Commission.

#### **E. Statutory Backing for Reservation for SCs/STs.**

5. A Bill namely the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004 was introduced in the Rajya Sabha on 22.12.2004. The Bill was referred to the Department Related Parliamentary Standing Committee on the Ministry of Personnel, Public Grievances, Law and Justice for examination and report. On receipt of the report of the Standing Committee on 29.06.2005, a Group of Ministers was constituted headed by the then Minister of External Affairs to consider the recommendations of the Committee. The Group of Ministers (GoM) considered the recommendations of the Committee and decided that „the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004“ should be withdrawn and a fresh Bill having provisions regarding reservation only for the Scheduled Castes and Scheduled Tribes be introduced in Parliament.

6. Accordingly, the Reservation Bill, 2004 was withdrawn on 22.12.2008 and a new Bill, namely, the Scheduled Castes and the Scheduled Tribes (Reservation in Posts and Services) Bill, 2008 was prepared and introduced in the Rajya Sabha. The Bill was passed by Rajya Sabha on 23.12.2008. The Bill could not be discussed in the 14<sup>th</sup> Lok Sabha and lapsed followingr the dissolution of the 14<sup>th</sup> Lok Sabha.

7. In the meanwhile, the Hon"ble Supreme Court, on 19.10.2006, while deliberating on the issue of validity of Constitutional amendments, namely, the 77<sup>th</sup>, 81<sup>st</sup>, 82<sup>nd</sup> and 85<sup>th</sup> Amendments in the case of M. Nagaraj Vs. UOI & Ors., inter-alia, observed that the concerned State would have to show in each case the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation in promotions. Relying on the judgment of the Supreme Court in M. Nagaraj case, High Courts in some states struck down the scheme of reservation in promotion to SCs and STs in the services of the states. The Apex Court upheld the decisions of these High Courts.

8. The Constitution (One hundred seventeenth Amendment) Bill, 2012, was introduced in Rajya Sabha on 05.09.2012. The said Bill was passed by Rajya Sabha on 17.12.2012 and transmitted to Lok Sabha. The Bill could not be discussed and passed in the last Parliament session of previous Lok Sabha and lapsed on the dissolution of the 15<sup>th</sup> Lok Sabha.

9. When the said Constitution Amendment Bill was pending in the Lok Sabha, the Department sought the opinion of the Department of Legal Affairs as to whether it would be appropriate to introduce the Bill, namely, the Scheduled Castes and the Scheduled Tribes (Reservation in posts & Services) Bill. Department of Legal Affairs advised that "it will seem more appropriate to first discuss the Constitution Amendment Bill which seeks to undo the effect of certain decisions of the Hon"ble Courts, as the OMs to which statutory backing is proposed to be given by the Reservation Bill in the Parliament would revive. An Administrative decision may be taken in this regard."

10. In view of above, a decision was taken with the approval of the then Hon"ble MOS(PP) that once the Constitution Amendment Bill for continuing reservation in promotion to SCs and STs is passed by the Parliament, the reservation Bill for SCs and STs , and the Reservation Bill for Scheduled Castes and the Scheduled Tribes (Reservation in posts and services) may be pursued.

11. At present, reservation policies meant for SCs, STs and OBCs are governed by executive instructions issued by DoPT from time to time. The Hon"ble Supreme

Court, in the matter of Indra Sawhney has, inter-alia, held that such executive instructions have the force of law.

**F. The Prevention of Atrocities Act and role of NCSC**

12. The NCSC had written to the Chief Ministers of all States/UTs requesting them to notify the recently amended Prevention of Atrocities Act and the Rules. Instructing them to display the salient features of the Act and Rules prominently in the Police stations/state Social Welfare Departments. State Governments have been advised to take steps to sensitize all concerned district and State Level Officers regarding the same through workshops etc at the earliest. State Governments have also been advised to take steps to sensitize all concerned district and state level officers regarding the same through workshops etc at the earliest.

**G. Status of SCs and STs in higher positions in various Ministries/Deptts. Of the Union Government**

13. As per available records furnished by DoPT at present, there are

- i. 1 SC officer and 4 ST officers at Secretary level in various Ministries/Departments at the centre;
- ii. 2 SC officers and 3 ST officers at Additional Secretary level in various Ministries/Departments at the centre; and
- iii. 17 SC officers and 9 ST officers at Joint Secretary level in various Ministries/Departments at the centre.

14. Appointment to the posts at the level of JS, AS and Secretary to Government of India is made from among the pool of officers empanelled to hold the posts and whose services are available to the Government of India.

Level	Total	SCs/STs	Non SCs/STs	Percentage of SC/ST vis-à-vis other category
<b>Secretary</b>	85	5	80	6.25
<b>Additional Secretary</b>	70	5	65	7.69
<b>Joint Secretary</b>	284	26	258	10.07

**H. Minority Educational Institutions and Reservation for SC/ST**

15. A number of Minority Educational Institutions have come into existence while some other universities/institutes have been granted the status of Minority Educational institution in various parts of the country. It is difficult for the ST/SC students to get admission in these institutions as the policy of reservation for SCs/STs is not applicable to these institutions as per the provisions of the Central Educational Institutions(Reservation in Admission)Act,2006. It has therefore, been felt that there is an , urgent need for review of the provisions of Central Educational Institutions(Reservation in Admission) Act, 2006.

**I. Applicability of Reservation Policy in Temporary appointments**

16. Reservation to SC/ST candidates is applicable to the Public Sector Undertakings, Statutory and Semi-Government Bodies, Autonomous Bodies/Institutions, Voluntary Agencies etc. under the control of the Central Government and in receipt of a general purpose annual grants-in aid. Reservation is also applicable in temporary appointments which are to last for 45 days or more. The reservation policy is not applicable to outsourced personnel.

**J. Financial Assistance to Leather Entrepreneurs**

17. The National Scheduled Castes Finance & Development Corporation(NSFDC) is a Central Public Sector Unit(CPSU) under the Department of Social Justice and Empowerment. NSFDC has been providing concessional financial assistance to Scheduled Caste entrepreneurs including Leather and Weaver entrepreneurs having annual family income up to Rs. 3.00 lakh (w.e.f. 8<sup>th</sup> March, 2018). Earlier, the annual family income of the target group was up to Rs. 98,000. For rural areas and Rs. 1,20,000/- for urban areas. The assistance is being provided through State Channelizing Agencies/Channelizing Agencies such as Public Sector Banks/Regional Rural Banks under its credit based schemes. Similarly ,NSFDC is also sponsoring Skill Development Training programmes on Leather and Weaving Activities for its target group through premier training institutions.

(a) Since the year 1991, a total of 5,768 units for leather entrepreneurs have been sanctioned in 16 States/UTs with the project cost of Rs. 59.26 crore including NSFDC Share of Rs. 36.63 crore.

- (b) Since the year 1991, a total of 680 units have been sanctioned in 9 states with the project cost of Rs. 6.03 crore including NSFDC's Share of Rs. 3.6 crore.
- (c) NSFDC in association with CSIR-CLRI, Central Footwear Training Institute and various State Leather Associations have organized skill development training programmes in different leather trades PAN India for candidates belonging to Scheduled Castes.
- (d) NSFDC has conducted skill development training programmes in various job roles related to weaving for production of handloom items in different states of the country.

**K. False Caste Certificates and Verification process**

- 18. The Ministry of Social Justice and Empowerment is the nodal agency for notification of Scheduled Castes. The subject of issuance and verification of caste certificates rests with the concerned State Government/Union Territory. However it has been stated that the Ministry of home affairs vide circular dated 29.06.1982 had requested the States/Union Territories to take strict measures to detect such cases on non SC and non ST persons holding false SC/ST Certificates, deprive them of benefits that they are not legally entitled to and impose appropriate penalties and take legal action against them and against those who were responsible for the issue of such certificates, strictly and expeditiously.

**L. Grant in aid to NGOs**

- 19. The Grant –in-Aid scheme of the Department of Social Justice and Empowerment for SCs aims to provide Grant in Aid to Voluntary Organizations/NGOs to run various projects to cater to the need of upliftment of SCs in various sectors like opening schools for SCs and also residential schools and hostels for them. Under this scheme applications for Grant-in Aid are submitted through an online portal in the Ministry with the recommendations of the State govt. These applications are examined for various projects in accordance with the extant norms/guidelines, fund availability, project requirements, etc. Wherever applications received contain

various deficiencies, clarifications on these deficiencies are called from the NGOs and as soon as necessary information is received, GIA is released.

20. Few important recommendations of NCSC, in its various reports presented to the president of India are as follows:-

- The Commission recommends that NCSC is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters along with its budget be given under a separate head of account in a separate demand of Grants instead of being a part of Ministry of Social Justice & Empowerment.
- For a continued welfare of the Scheduled Castes , it is recommended that the process of appointing a new Commission is designed in a way to ensure seamless transitions between two successive Commissions.
- Government of India may issue an OM reiterating the provisions of Article 38 wherein the concerned Ministries/Departments of the Government of India and State/UT governments consult with NCSC in planning process for schemes wherein the socio-economic welfare of scheduled castes is affected.
- The Commission, recommends that the Government may take all necessary actions to make recommendations of the NCSC as binding. The Commission should be suitably empowered so that it can effectively function and oversee that the safeguards to Scheduled Castes as guaranteed under the Constitution are implemented in letter and spirit.
- The Commission reiterates that the state Governments take time bound steps to notify and publicize and issue instructions to officers to act as per the Amended POA Act, 2015 and Rules 2016.

## CHAPTER-II

### RECOMMENDATIONS/OBSERVATIONS

(1) The Committee note that NCSC does not enjoy adequate independence in exercising financial powers and it does not have a separate „Demand for Grants“. Consequently, the Commission is not in a position to discharge its work effectively. The Committee, in this regard, are not inclined to support the Governments view that NCSC, though an independent body, does not need financial independence from the Ministry of Social Justice and Empowerment .The makers of Constitution had stressed on the fact that the SC population of India needs special care in order to bring them on par with other sections of society, owing to which several specific provisions have been made to safeguard the interest of SCs. Successive Governments have, over the years, shown keen interest in strengthening the laws for upliftment of SCs. This being an all important and sensitive issue, cannot be compared or treated on par with other issues. Financial dependence of NCSC on the Ministry of Social Justice and Empowerment is a major hindrance for its efficient working and delivery of goals for accomplishing which the national level body has been set up. The Committee, therefore, strongly recommend that NCSC should be given adequate and distinct financial independence and powers so that it can, apart from carrying out its administrative functions smoothly, take better care of its core agenda of upliftment of SCs; and addressing issues pertaining to their grievances and betterment.

(2) The Committee observe that though the Commission is bestowed with the power of Civil Court, it is not in a position to exercise effective authority as its recommendations and findings are not binding on anyone. From an analysis of the data available with the Commission, it is very much evident that its recommendations are hardly ever accepted and implemented by the agencies concerned. Since NCSC is a premier national level institution for redressing the grievances and safeguarding the interest of SCs across the country, it receives a large number of „grievance cases“ from SCs spanning across different fields. After investigating and going through all the relevant facts, NCSC gives its decision on the cases, which unfortunately, are not binding on the „aggressor parties“, who, therefore, easily get away with the

wrong doing. There is a plethora of civil cases where SCs working in PSUs and Government run organizations are deprived of timely promotions that are legitimately due, seniority, or other perks and facilities, and the administrative department/agency concerned is found to blatantly ignore their pleas for no valid or coherent reason. Such aggrieved persons approach the Commission with the hope of getting justice, but the powers of the Commission being illusory, they fail to get justice, with the end result being that their faith in the Commission as a protector of their rights and interests is also eroded. The Committee are, therefore, compelled to express the opinion that the Commission is a mere „titular body" so long as it does not get some real judicial powers. The Committee therefore recommend that the powers of Commission need to be suitably enhanced so as to make its orders binding at least in regard to service matter cases and grievances addressed by the Commission.

The argument of the Government against this proposition also centres on the aspect that the Members of the Commission do not possess judicial knowledge and hence cannot be given powers akin to a Civil Court. The Committee, in this regard, recommend that the total number of members of the Commission be adequately increased. Also, one third of the Members appointed should have legal/judicial expertise which would facilitate in giving appropriate decisions in the light of existing rules and laws. Unless the powers of a Civil Court are conferred on the Commission, whereby the decisions would be binding and not merely recommendatory, at least in regard to service matters, the Commission will not become an effective body to serve the purpose for which it was formed .As of now, compliance with the decisions given by the Commission is negligible. It is found that in 99% of the cases, the aggrieved SC person is not able to get justice due to „non-honouring" of the orders delivered by the Commission.

(3) The Committee note that the Commission is composed of only five Members, including the Chairperson. The Committee feel that the number of Members is not adequate to represent or take care of the interests of the population of SCs and STs in the country. Thus, only a fraction of the complaints that are received are dealt by the Commission. Our country has a

total of 29 States, of which some States have a high percentage of SC population. Similarly, some States have a high percentage of ST population. The Committee feel that there should be one Member from each State in the Commission. Accordingly, zonal/regional offices need to be constituted to facilitate speedy delivery of justice to the „deprived sections“ at the regional/State level. This will provide for adequate representation of all regions of the country in the Commission. Secondly, the supporting staff of the Commission needs to be increased proportionately so that the administrative work is smoothly executed. The Committee also strongly recommend that vacancies in NCSC, which are existing since long, be filled up within a period of three months from the presentation of this Report.

(4) The Commission highlighted in its report the fact that there are many Minority institutions in the country which do not provide reservation to SCs and STs. As per the information furnished by the Ministry of Social Justice and Empowerment the Ministry of Minority Affairs has expressed favour with the recommendation of the National Commission for Scheduled Tribes for extending the benefit of reservation in Government aided minority institutions. The Committee, are of the view that the Government must bring in a suitable amendment in the Central Educational Institutions (Reservation in Admission)Act, 2006 so as to enable SCs/STs to secure prescribed reservation in admissions to Minority Institutions.

(5) The Committee note that the Ministry of Social Justice and Empowerment is an important Ministry which gives Grants-in-aid to various NGOs for upliftment of SCs. There is a „portal“ created by the Ministry through which it receives applications for Grant-in-aid via the State Governments concerned. Nevertheless, there are many genuine NGOs who are not able to receive the much needed Grant-in-aid. At times, it is due to „red tapism“ at the level of the State Government concerned or due to inadequacies in „paperwork“ that Grant-in-Aid is not sanctioned. The Committee feel that the Ministry should simplify the process of providing Grant-in-aid so that a larger number of NGOs benefit from this scheme. At the same time, the Ministry should ensure that these NGOs utilize the funds properly for the purpose for which they are granted. Obtaining a compliance report from the NGOs would,

therefore, be a must. The Committee recommend that the Ministry should devise a holistic approach for identifying the NGOs who are actually working at the field level for upliftment of SCs/STs and support them so that they can continue with the good work being done. The Committee, in this regard, also wish to be furnished with detailed data, giving *inter-alia* the names of NGOs who have received Grant-in-aid from the Ministry in last three years; and also the criteria on the basis of which grants have either been given or stopped. The Committee also desire to be informed of the monitoring mechanism available with the Ministry on effective utilisation of the funds and corrective measures initiated and taken on the observations made in the course of monitoring.

(6) The Committee note from the data provided by the Commission that the number of cases of false caste certificates has witnessed a spurt, particularly in the recent past. The Ministry, in this regard, have stated that the matter pertaining to verification of caste certificates is a state level issue. The Committee recommend that the Ministry of Social Justice and Empowerment should take the initiative towards enacting an appropriate law by way of which, both making and furnishing false caste certificates would be cognizable offences involving heavy fine and imprisonment. The State Governments should be given guidelines for strict implementation of this law. Also, at the same time, the process of verification of caste certificates should be made simple. Many a time, candidates are asked to personally help in verifying the certificates with the relevant authorities. A law should be made whereby it would be mandatory that any such verification be completed within fifteen to thirty days and officers who delay the stipulated process brought to book. Also, the process of verification should not, in any way affect the candidates concerned by way of delaying the process of their joining or taking up the job selected for. The Committee also wish to be informed of the number of cases where official FIR has been lodged and criminal cases booked for securing jobs on the basis of false caste certificates. The Committee may also be informed of details in regard to in pursuance of Supreme Court order on immediate termination of the jobs of such employees who may have secured jobs on the basis of false caste certificates.

(7) The Committee are of the view that the enactment of PoA Act by the Government is a welcome step in the endeavour to stop atrocities on SC/ST people. The Committee feel that the State Governments should be sensitized so that the PoA act is implemented in letter and spirit and well advertised so that the SC people are made aware of their rights. The Committee recommend that a portal be created by the Ministry in which all cases throughout the country which have been registered under the PoA Act are listed. Also, details of progress of these cases, and their final outcome should be given in the portal, which may also be connected with the portals of NCSC, NCST; and shared with the Parliamentary Committee on Welfare of SCs and STs. Such a national level portal can help bring in transparency and also early and proper progression of cases booked under this Act. The Committee would like to be apprised of the Notifications issued by the Government in pursuance of the PoA Act passed by the Parliament and assented to by the President of India.

(8) The Ministry of Social Justice and Empowerment is the nodal agency for implementing AWSC in the country. The Committee recommend that the Ministry give focussed attention to this plan, since it is the nodal plan for SCs, who constituted a substantial section of the population of the country. On earlier occasions too, the Committee had, in their Reports made recommendations on this aspect. For instance, the Committee had in their 25<sup>th</sup> Report(16<sup>th</sup> Lok Sabha) recommended that SCSP should have statutory backing so as to ensure serious and effective implementation of the plan as has been done by the State Governments of Karnataka and Telangana. This would enable the Ministries concerned to plan, implement, and monitor the AWSC in right earnest and spirit. The Committee had also recommended that since a number of Ministries, as well as NITI Aayog and the State Governments are involved in AWSC, it is very important that there is proper coordination of work amongst them. NITI Aayog or M/o Social Justice may be given statutory powers so that causes for delays and discrepancies at various levels could be effectively tackled and thereby ensure that the schemes reach their desired goal. The Committee are of the view that the most of the vital scheme envisaged for SCs i.e. AWSC has not been implemented in letter and spirit so far.

(9) The Committee have extensively assessed the issue of reservation in promotions in Government departments, PSUs and various Government aided institutions. The data received in this regard from DoPT shows that the number of SCs and STs in higher positions in the Government is very dismal. There appears to be no change in the situation since the time of the presentation of the 26<sup>th</sup> Action Taken Report of the Committee on the Welfare of SCs and STs on the subject “Review of representation of SCs and STs in senior positions of Government of India”, in March, 2013. The Committee had, in the Report, observed *inter-alia* that the representation of SC and ST officers in the higher echelons of the bureaucracy was rather dismal. The Committee had also expressed concern over the fact that hardly any SC official occupied the post of secretary in any of the offices under the Government of India. The Committee had observed that the Department of Personnel and Training was not serious enough to get the reservation policy implemented in letter and spirit. The Committee had, in this regard succinctly observed: “Even though the Constitution lays down the provision contained in Article 16(4A) as enabling, the onus of responsibility for its enablement lies with the DoPT”. The Committee had, further, recommended that the DoPT should maintain centrally collected data for reservation, promotion, including appointment and promotion on merit etc. so that each state may easily prove whether SCs/STs are adequately represented or not.

(10) In order to have adequate representation of SCs/STs in higher positions in Ministries, Departments under the Government of India, the Committee strongly recommend that the Constitution 117<sup>th</sup> Amendment Bill, 2012 which was passed by the Rajya Sabha, but lapsed pending consideration in the 15<sup>th</sup> Lok Sabha be again introduced and passed by both the Houses of Parliament so as to be in the interest of social justice .

(11) The reservations for Scheduled Castes and Scheduled Tribes have been provided for by the Government of India through instructions and executive orders and not through legislation. The scheme of reservation as formulated by the Department of Personnel and Training and Ministry of Home Affairs is basically applicable to services under the Government of India. Reservations

in the services under the Public Sector banks and Public Sector enterprises are governed by separate instructions issued by the Banking Division of Ministry of Finance, and the Department of Public enterprises respectively and the administrative ministries concerned. There are many other establishments, which are either statutory or non- statutory, where reservations are provided through executive instructions.

All these provisions are made in the Constitution with the objective of providing opportunities to the Scheduled Castes in the country. The 71 years of history of independent India and its development proves that these provisions have increased the representation of Scheduled Caste employees in posts and services in Government organizations. The extent of implementation of the provisions varies from State to State. The Service safeguards and provisions have played a very significant role in the economic development of the Scheduled Castes in the country. Those groups who were more vigilant, and active have benefitted from these provisions. To improve the representation of Scheduled Castes in posts and services, there is strong and urgent need to pass a bill pertaining to Reservation for Scheduled Castes and Scheduled Tribes in the posts and services under the Government so as to bring in uniformity in the implementation of the policy and taking punitive measures against the non-implementing organizations and individuals.

The experience of the Committee during various review meetings regarding implementation of reservation policies in different Central/State/Govt. Offices/PSUs and in the course of hearings reveals that in the absence of legislative measures which could act as a deterrent by providing for penal action against defaulters, the reservation is not being followed scrupulously. The demand for enacting a legislation in the matter of reservation for Scheduled Castes and Scheduled Tribes has also been voiced from time to time by various agencies.

The SC& ST &OBC(Reservation in posts and services), Bill 2004 was introduced in Rajya Sabha on 21.12.2004 without taking into consideration the views of the Commission. The Commission have also expressed their views in this regard to the Chairman of the Department Related Parliamentary Standing Committee and to the Rajya Sabha. The Bill has not yet been considered for passing. The Committee therefore strongly recommend that in order to

implement the reservation policy effectively there is an urgent need to frame the reservation policy under a statute enacted by Parliament.

(12) Government of India vide its Office Memorandum dated 24.09.1968 had laid down instructions that in regard to appointments to Central Government posts and services there shall be reservation for Scheduled Castes/Scheduled Tribes/OBC candidates in temporary appointments which are to last for 45 days or more. NCST pointed out DoP&T's 1968 OM and stressed that it should be reiterated. Hence, DoP&T vide their order No. 36036/3/2018-Estt. Dated May 15, 2018 reiterated the above-mentioned instructions and sent it to all Central Government offices. The Committee are of the view that the instructions given in this Office memorandum are not followed in letter and spirit. There is no data available to determine the level of compliance in case of temporary appointments exceeding 45 days. Hence, the Committee recommend that these instructions be circulated at repeated intervals to all Government departments so that they are complied with.

(13) The Committee, during the inter-action with various Ministries, Departments, PSUs, Banks and autonomous bodies observed that most of the Group C and D posts have been outsourced to private contractors where reservation policy is not followed. There are clear and strong recommendations of the Committee in various reports presented to Parliament that in cases of works outsourced to private agencies, there must be a clause in the provisions of the „contract" to ensure adequate representation of SCs and STs by providing prescribed reservation to them. However no positive action has been taken by the Government so far in this regard. The Committee are of the strong view that in the absence of statutory provisions, the Government organizations are not following the reservation policy in contractual/outsourced work. The Committee, therefore, earnestly recommend that the Government must provide statutory backing in favour of reservation for SCs and STs in outsourced work.

(14) It has come to the notice of the Committee that cadre review has not been carried out for the „joint cadres" of Ministry of Social Justice and

Empowerment and NCSC in the last 30 years. The officials posted in this cadre are stagnating at the same level for 20 to 26 years without any promotion. The post of DIG in NCSC is lying vacant for the last 15 years as no IPS candidate is available to take up the said post. The Committee have, learned that the Ministry does not provide basic facilities which come along with the post of a DIG such as requisite office space, conveyance and assisting clerical staff .In such a scenario, the post is bound to lie vacant since no officer will be willing to occupy it.

The Committee, therefore, recommend that all facilities attached to the post of DIG should be provided to the official occupying it in the Ministry. The Committee further recommend that if a suitable candidate is not available from the Central services, the Ministry of Social Justice and Empowerment should make a provision in the Rules that an officer of the rank of Director or above ranks possessing the prescribed legal/administrative qualifications may be appointed to the said post either from within the Ministry or by means of deputation, as the case may be. The number of cases of atrocities against SCs being continuously on the rise, a DIG level officer in NCSC is the need of the hour to enable in investigating such cases and bringing the guilty to book.

(15) The DoP&T vide their Office Memorandum No.I-11019/6/2008 dated September 5, 2008 has instructed all the cadre controlling authorities to carry out the cadre reviews in respect of the services under their administrative control within a year. The Committee are surprised that despite such a clear order of DoP&T for carrying out cadre reviews, the exercise has not been undertaken in regard to the Joint cadre of Ministry of Social Justice and Empowerment and NCSC in the last 30 years. Consequently, the morale of the Group B and C officials working in NCSC is very low due to absence of any avenue of promotion. The Committee strongly denounce this act of the Ministry and recommend that cadre review for all the groups of employees in NCSC be done immediately and avenues for promotion/career progression opened to them.

(16) The Committee has sought information from the Ministry of Social Justice and Empowerment and NCSC through several Office Memoranda and

their reminders details regarding the total number of individual complaints received by the Commission and action taken there on. Inspite of repeated reminders, the NCSC has not divulged any data either on the number of representations received or action taken in regard to these cases. The Committee have inferred from this reluctance of NCSC from giving details that there is „zero compliance“ in case of recommendations of NCSC in regard to individual complaints which it receives. This very dismal picture is extremely worrying to the Committee as an apex institution, like NCSC is practically a powerless body, whose recommendations are not complied with by Government agencies themselves. The SC population of the country looks upto NCSC as the main institution through which their grievances would be resolved but in reality it is quite the opposite. The Committee, therefore, once again strongly recommend that NCSC be given appropriate statutory powers so as to make it a „strong working and protective body for the SC population of the country.

(17) The Committee feel that National Scheduled Castes finance and Development Corporation(NSFDC) is a premier institution through which poor and vulnerable SC families can get financial support especially in rural areas. NSFDC has ventured its financial assistance in the leather industry , footwear industry and also handloom industry. The Committee feel that NSFDC can enter into many other fields like dairy products, small handicrafts made of local trees, poultry farms etc which are part of rural india and which require financial support. Most of the SC population which lives in rural areas earns its living through agriculture and its allied activities like dairy, poultry, goat farms, apiculture etc. Hence, the Committee recommend that NSFDC should increase its outreach to other sectors as well and provide financial assistance as well as skill development training to rural youths for better income generation.

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