

48 National Commission for STs

Like the National Commission for Scheduled Castes (SCs), the National Commission for Scheduled Tribes (STs) is also a constitutional body in the sense that it is directly established by Article 338-A of the Constitution¹.

SEPARATE COMMISSION FOR STs

The National Commission for SCs and STs came into being consequent upon passing of the 65th Constitutional Amendment Act of 1990². The Commission was established under Article 338 of the Constitution with the objective of monitoring all the safeguards provided for the SCs and STs under the Constitution or other laws³.

Geographically and culturally, the STs are different from the SCs and their problems are also different from those of SCs. In 1999, a new Ministry of Tribal Affairs was created to provide a sharp focus to the welfare and development of the STs. It was felt necessary that the Ministry of Tribal Affairs should coordinate all activities relating to the STs as it would not be administratively feasible for the Ministry of Social Justice and Empowerment to perform this role⁴.

Hence, in order to safeguard the interests of the STs more effectively, it was proposed to set up a separate National Commission for STs by bifurcating the existing combined National Commission for SCs and STs. This was done by passing the 89th Constitutional Amendment Act of 2003⁵. This Act further amended Article 338 and inserted a new Article 338-A in the Constitution.

The separate National Commission for STs came into existence in 2004. It consists of a chairperson, a vice-chairperson and three other members. They are appointed by the President by warrant under his hand and seal. Their conditions of service and tenure of office are also determined by the President⁶.

FUNCTIONS OF THE COMMISSION

The functions of the Commission are:

- (a) To investigate and monitor all matters relating to the constitutional and other legal safeguards for the STs and to evaluate their working;
- (b) To inquire into specific complaints with respect to the deprivation of rights and safeguards of the STs;
- (c) To participate and advise on the planning process of socio-economic development of the STs and to evaluate the progress of their development under the Union or a state;
- (d) To present to the President, annually and at such other times as it may deem fit, reports upon the working of those safeguards;
- (e) To make recommendations as to the measures that should be taken by the Union or a state for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the STs; and
- (f) To discharge such other functions in relation to the protection, welfare and development and advancement of the STs as the President may specify.

OTHER FUNCTIONS OF THE COMMISSION

In 2005, the President specified the following other functions of the Commission in relation to the protection, welfare and development and advancement of the STs⁷ :

- (i) Measures to be taken over conferring ownership rights in respect of minor forest produce to STs living in forest areas
- (ii) Measures to be taken to safeguard rights of the tribal communities over mineral resources, water resources etc., as per law
- (iii) Measures to be taken for the development of tribals and to work for more viable livelihood strategies
- (iv) Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects
- (v) Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place
- (vi) Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation
- (vii) Measures to be taken to ensure full implementation of the Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996
- (viii) Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation by tribals that lead to their continuous disempowerment and degradation of land and the environment

REPORT OF THE COMMISSION

The Commission presents an annual report to the President. It can also submit a report as and when it thinks necessary.

The President places all such reports before the Parliament, along with a memorandum explaining the action taken on the recommendations made by the Commission. The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.

The President also forwards any report of the Commission pertaining to a state government to the state governor. The governor places it before the state legislature, along with a memorandum explaining the action taken on the recommendations of the Commission. The memorandum should also contain the reasons for the non-acceptance of any of such recommendations.

POWERS OF THE COMMISSION

The Commission is vested with the power to regulate its own procedure.

The Commission, while investigating any matter or inquiring into any complaint, has all the powers of a civil court trying a suit and in particular in respect of the following matters:

- (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing summons for the examination of witnesses and documents; and
- (f) any other matter which the President may determine.

The Central government and the state governments are required to consult the Commission on all major policy matters affecting the STs.

NOTES AND REFERENCES

1. Article 338-A is contained in Part XVI entitled as 'Special Provisions Relating to Certain Classes'. This Article was inserted by the 89th Constitutional Amendment Act of 2003.
2. The Act came into force on 12-03-1992.
3. The constitutional safeguards for the SCs and STs are explained in [Chapter 68](#).
4. The Ministry of Social Justice and Empowerment co-ordinates all activities relating to the SCs.
5. The Act came into force on 19-02-2004.
6. Under the Rules, they hold office for a term of three years.
7. The National Commission for the Scheduled Tribes (Specification of Other Functions) Rules, 2005.