

## CONSTITUTIONAL/NON-CONSTITUTIONAL INSTITUTIONS

### **THE ELECTION COMMISSION OF INDIA**

The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

Election Commission of India is a permanent Constitutional Body. The Election Commission was established in accordance with the Constitution on 25th January 1950. The Commission celebrated its Golden Jubilee in 2001. Originally the commission had only a Chief Election Commissioner. It currently consists of Chief Election Commissioner and two Election Commissioners.

For the first time two additional Commissioners were appointed on 16th October 1989 but they had a very short tenure till 1st January 1990. Later, on 1st October 1993 two additional Election Commissioners were appointed. The concept of multi-member Commission has been in operation since then, with decision making power by majority vote. The Commission transacts its business by holding regular meetings and also by circulation of papers. All Election Commissioners have equal say in the decision making of the Commission. The Commission, from time to time, delegates some of its executive functions to its officers in its Secretariat.

#### **Appointment and Tenure of Commissioners**

The President appoints Chief Election Commissioner and Election Commissioners. They have tenure of six years, or up to the age of 65 years, whichever is earlier. They enjoy the same status and receive salary and perks as available to Judges of the Supreme Court of India.

According to Article 324(5), the Chief Election Commissioner shall not be removed from his office except in like manner and on the manner and on the like grounds as a Judge of the Supreme Court

and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment.

Any other Election Commissioner or a Regional Commissioner shall be removed from office on the recommendation of the Chief Election Commissioner.

#### **Functions and Working of the Commission**

In the performance of its functions, the Election Commission is insulated under the Constitution from executive interference. It is the Commission which decides the Election schedules for the conduct of elections – both general elections and by-elections. The Election Commission prepares, maintains and periodically updates the Electoral Rolls, which show who is entitled to vote, supervises the nomination of candidates, registers political parties, monitors the election campaign, recognizes national and state parties and distribute symbols to the parties and the candidates.. It also facilitates the coverage of the election process by the media, organizes the polling booths where voting take place, and looks after the counting of votes and the declaration of results. It has introduced voting through Electronic Voting Machines (EVM) and compulsory identification at the time of voting by means of Electors' Photo Identity Card (EPIC), which is prepared and distributed by the Chief Electoral Officers. All this is done to ensure that elections can take place in an orderly and fair manner.

Elections are conducted according to the Constitutional provisions, supplemented by laws made by Parliament. The major laws are the Presidential and Vice-Presidential Elections Act, 1952, which deals will all aspects of conduct of elections to the highest elective offices in India, including settlement of all doubts and disputes relating thereto; the Representation of the People Act, 1950, which mainly deals with the preparation and revision of electoral rolls for Parliamentary and Assembly elections; and the Representation



of the People Act, 1951, which deals, in detail, will all aspects of conduct of elections to Parliament and State legislature and post election disputes. The Supreme Court of India was held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the Election Commission has the residuary powers under the Constitution to act in an appropriate manner.

The Commission has its headquarters at Nirvachan Sadan in New Delhi, with a Secretariat of some 350 staff members. Three Deputy Election Commissioners, generally appointed from the national civil service of the country, and selected and appointed by the Commission with tenure, are the senior most officers in the Secretariat to assist the Commission. Directors, Principal Secretaries and Secretaries, Under Secretaries and Deputy Directors support the Deputy Election Commissioners in turn. There is functional and territorial distribution of works in the Commission. The territorial work is distributed among separate units responsible for six Zones into which the 28 constituent States and 7 Union Territories of the country are grouped for convenience of management.

At the State level, the election work is supervised, subject to overall superintendence, direction and control of the Commission, by the Chief Electoral Officer of the State, who is appointed by the Commission by selection form amongst senior civil servant proposed by the concerned State Government. He is, in most of the States, a full time officer and has a team of supporting staff at the State level.

At the District and Sub-Divisional levels is run by the District Magistrate/Deputy Commissioner/Collectors), Sub-Divisional Magistrate, Revenue Divisional Officers, Tahsildars, etc. They are senior officers of the State Governments, belonging to the national and State civil services. The Election Commission utilizes the same State Government officers, for election work, by designating them as District Election Officers, Electoral Registration Officers, Returning Officers, Assistant Electoral Registration Officers, Assistant Returning Officers, etc. They all perform their functions relating to elections in addition to their other responsibilities. During election time, however, they are available

to the Commission, more or less, on a full time basis.

### **COMPTROLLER AND AUDITOR GENERAL OF INDIA**

The office of the Comptroller General of India (CAG) is a Constitutional office provided under Article 148 of the Constitution. He is considered to be the guardian of public purse.

#### **Functions/ duties of the CAG**

He audits the accounts of the Union and the States and the Union Territories having their own legislative assembly and submits the report to the President, to the Governor or to the Lieutenant Governor as the case may be.

He looks into the matter that the money withdrawn from the Consolidated Fund has been withdrawn with the consent of the parliament or not.

He also looks into the fact that whether the money withdrawn from the Consolidated Fund has been used for the purpose for which it was withdrawn or not.

#### **Audit Jurisdiction**

The organisations subject to the audit of the Comptroller and Auditor General of India are:-

- All the Union and State Government departments and offices including the Indian Railways and Posts and Telecommunications.
- About 1200 public commercial enterprises controlled by the Union and State governments, i.e. government companies and corporations.
- Around 400 non-commercial autonomous bodies and authorities owned or controlled by the Union or the States.
- Over 4400 authorities and bodies substantially financed from Union or State revenues.

#### **Role of the CAG**

The Comptroller and Auditor General of India plays a key role in the functioning of the financial committees of Parliament and the State Legislatures. He has come to be recognized as a 'friend, philosopher and guide' of the Committee.



His Reports generally form the basis of the Committees' working, although they are not precluded from examining issues not brought out in his Reports. He scrutinizes the notes which the Ministries submit to the Committees and helps the Committees to check the correctness submit to the Committees and helps the Committees to check the correctness of facts and figures in their draft reports.

The Financial Committees present their Report to the Parliament/ State Legislature with their observations and recommendations. The various Ministries/Department of the Government are required to inform the Committees of the action taken by them on the recommendations of the Committees (which are generally accepted) and the Committees present Action Taken Reports to Parliament/Legislature.

In respect of those cases in Audit Reports, which could not be discussed in detail by the Committees, written answers are obtained from the Department/Ministry concerned and are sometimes incorporated in the Reports presented to the Parliament / State Legislature. This ensures that the audit Reports are not taken lightly by the Government, even if the entire report is not deliberated upon by the Committee.

### **Safeguards Extended To the CAG to Ensure Impartiality in his Functioning**

Article 148 of the Constitution provides safeguards to the CAG to ensure impartiality in his functioning.

The CAG is appointed for a fixed tenure and can be removed in the manner the judges of the Supreme Court are removed. The tenure of CAG is 6 years or till 65 years whichever is earlier.

The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office. In other words after retirement he is not eligible for reappointment.

The salary allowances and the administrative expenditure of CAG are charged on Consolidated Fund of India.

Neither the salary of a Comptroller and Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

### **FINANCE COMMISSION**

The Finance Commission is constituted by the President under article 280 of the Constitution, mainly to give its recommendations on distribution of tax revenues between the Union and the States and amongst the States themselves. Two distinctive features of the Commission's work involve redressing the vertical imbalances between the taxation powers and expenditure responsibilities of the centre and the States respectively and equalization of all public services across the States.

It is the duty of the Commission to make recommendations to the President as to—

the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them and the allocation between the States of the respective shares of such proceeds;

the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;

the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;

any other matter referred to the Commission by the President in the interests of sound finance.

The Commission determines its procedure and has such powers in the performance of its functions as Parliament may by law confer on them.

### **The Thirteenth Finance Commission**

The Thirteenth Finance Commission has been set up under the Chairmanship of Dr. Vijay L. Kelkar [former Union Finance Secretary and Advisor to the Finance Minister]. Other Members of the Commission are Dr. Indira Rajaraman [Professor Emeritus, National Institute of Public Finance and Policy New Delhi], Prof. Atul Sarma, Former Vice Chancellor, Rajiv Gandhi University [erstwhile Arunachal University], Dr. Sanjiv Misra [Former



Secretary (Expenditure) Government of India). Shri B.K. Chaturvedi (Member, Planning Commission) is the part-time Member of the Thirteenth Finance Commission. Shri Sumit Bose is the Secretary, Thirteenth Finance Commission.

### **Terms of Reference of the Thirteenth Finance Commission**

1. The Commission shall make recommendations as to the following matters, namely :-
  - (i) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under Chapter I Part XII of the Constitution and the allocation between the States of the respective shares of such proceeds;
  - (ii) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India and the sums to be paid to the States which are in need of assistance by way of grants-in-aid of their revenues under article 275 of the Constitution for purposes other than those specified in the provisos to clause (1) of that article; and
  - (iii) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats and Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State.
2. The Commission shall review the state of the finances of the Union and the States, keeping in view, in particular, the operation of the States' Debt Consolidation and Relief Facility 2005-2010 introduced by the Central Government on the basis of the recommendations of the Twelfth Finance Commission, and suggest measures for maintaining a stable and sustainable fiscal environment consistent with equitable growth.
3. In making its recommendations, the Commission shall have regard, among other considerations, to -
  - (i) the resources of the Central Government, for five years commencing on 1st April 2010, on the basis of levels of taxation

and non-tax revenues likely to be reached at the end of 2008-09;

- (ii) the demands on the resources of the Central Government, in particular, on account of the projected Gross Budgetary Support to the Central and State Plan, expenditure on civil administration, defence, internal and border security, debt-servicing and other committed expenditure and liabilities;
- (iii) the resources of the State Governments, for the five years commencing on 1st April 2010, on the basis of levels of taxation and non-tax revenues likely to be reached at the end of 2008-09;
- (iv) the objective of not only balancing the receipts and expenditure on revenue account of all the States and the Union, but also generating surpluses for capital investment;
- (v) the taxation efforts of the Central Government and each State Government and the potential for additional resource mobilisation to improve the tax-Gross Domestic Product ratio in the case of the Union and tax-Gross State Domestic Product ratio in the case of the States;
- (vi) the impact of the proposed implementation of Goods and Services Tax with effect from 1st April, 2010, including its impact on the country's foreign trade;
- (vii) the need to improve the quality of public expenditure to obtain better outputs and outcomes;
- (viii) the need to manage ecology, environment and climate change consistent with sustainable development;
- (ix) the expenditure on the non-salary component of maintenance and upkeep of capital assets and the non-wage related maintenance expenditure on plan schemes to be completed by 31st March, 2010 and the norms on the basis of which specific amounts are recommended for the maintenance of the capital assets and the manner of monitoring such expenditure;
- (x) the need for ensuring the commercial viability of irrigation projects, power



- projects, departmental undertakings and public sector enterprises through various means, including levy of user charges and adoption of measures to promote efficiency.
4. In making its recommendations on various matters, the Commission shall take the base of population figures as of 1971, in all such cases where population is a factor for determination of devolution of taxes and duties and grants-in-aid.
  5. The Commission may review the present arrangements as regards financing of Disaster Management with reference to the National Calamity Contingency Fund and the Calamity Relief Fund and the funds envisaged in the Disaster Management Act, 2005(53 of 2005), and make appropriate recommendations thereon.
  6. The Commission shall indicate the basis on which it has arrived at its findings and make available the estimates of receipts and expenditure of the Union and each of the States.
  7. The Commission shall make its report available by the 31st day of October, 2009, covering the period of five years commencing on the 1st day of April, 2010.

#### **Additional Term of Reference**

8. A. Having regard to the need to bring the liabilities of the Central Government on account of oil, food and fertilizer bonds into the fiscal accounting, and the impact of various other obligations of the Central Government on the deficit targets, the Commission may review the roadmap for fiscal adjustments and suggest a suitably revised roadmap with a view to maintaining the gains of fiscal consolidation through 2010 to 2015.

[Inserted vide Presidential Order dated 25th August, 2008]

#### **UNION PUBLIC SERVICE COMMISSION**

Indianization of the superior Civil Services became one of the major demands of the political movement compelling the British Indian Government to consider setting up of a Public

Service Commission for recruitment to its services in the territory. The first Public Service Commission was set up on October 1st, 1926. However, its limited advisory functions failed to satisfy the people's aspirations and the continued stress on this aspect by the leaders of our freedom movement resulted in the setting up of the Federal Public Service Commission under the Government of India Act 1935. Under this Act, for the first time, provision was also made for the formation of Public Service Commissions at the provincial level.

The Constituent Assembly, after independence, saw the need for giving a secure and autonomous status to Public Service Commissions both at Federal and Provincial levels for ensuring unbiased recruitment to Civil Services as also for protection of service interests. With the promulgation of the new Constitution for independent India on 26th January, 1950, the Federal Public Service Commission was accorded a constitutional status as an autonomous entity and given the title – Union Public Service Commission

#### **Constitutional Provisions**

The Union Public Service Commission has been established under Article 315 of the Constitution of India. The Commission consists of a *Chairman and ten Members*.

The terms and conditions of service of Chairman and Members of the Commission are governed by the Union Public Service Commission (Members) Regulations, 1969.

The Commission is serviced by a Secretariat headed by a Secretary with two Additional Secretaries, a number of Joint Secretaries, Deputy Secretaries and other supporting staff.

The Union Public Service Commission has been entrusted with the following duties and role under the Constitution:

- Recruitment to services and posts under the Union through conduct of *competitive examinations*;
- Recruitment to services and posts* under the Central Government by Selection through Interviews;
- Advising on the suitability of officers for



- appointment on promotion as well as transfer-on-deputation;
- Advising the Government on all matters relating to methods of Recruitment to various services and posts;
  - Disciplinary cases relating to different civil services; and
  - Miscellaneous matters relating to grant of extra ordinary pensions, reimbursement of legal expenses etc.

The major role played by the Commission is to select persons to man the various Central Civil Services and Posts and the Services common to the Union and States (viz. All-India Services).

Under Article 320 of the Constitution of India, the Commission are, inter-alia, required to be consulted on all matters relating to recruitment to civil services and posts.

Under Article 320(3) of the Constitution the Commission is required to be consulted on the quantum of penalties in disciplinary cases affecting a person serving under the Government of India in a Civil Capacity.

Article 321 also empowers the Parliament to extend the functions of the Public Service Commission to any local authority or other body corporate constituted by Law or by any public institutions.

#### **Binding nature of the advice of the Commission**

A convention has been established by the Government of India, that in the following classes of the cases referred to the Commission, the recommendations made by them shall be accepted, save in exceptional circumstances.

#### **Quasi-judicial cases**

- Selection for appointments of candidates.
- Appointment of a candidate on a higher initial pay than that of a minimum pay of the posts.
- Claims of expenditure incurred by the Government servants in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty.

#### **Annual Reports**

The Commission has a duty, under Article 323 of the Constitution to present annually to the President a Report as to the work done by the Commission and on receipt of such report, the president shall cause a copy thereof together with the Memorandum explaining, as respect the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance to be laid before each House of the Parliament.

**Removal from office:** Articles 317 (1) and 317 (3) deal with removal of the members.

Art 317 (1) lays down that the President shall by order remove the chairman or any other members on the grounds of misbehavior.

Such an order of Removal can be made by the President only when the following requirements are complied with:

- (i) The SC after holding an enquiry must have reported that the concerned person ought to be removed on the ground of such misbehaviors.

Art. 317 (3) provides that the President may by order remove from office the chairman or any other member or the Public Service Commission if:

- (1) He is adjudged as insolvent.
- (2) If he engages during his term of office in any paid employment outside that duties of his office.
- (3) If in the opinion of the President, he is unfit to continue in office by reason of his infirmity of mind or body.

#### **NATIONAL COMMISSION FOR SCHEDULE CASTES**

The framers of the Constitution took note of the fact that certain communities in the country were suffering from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of this primitive agricultural practices, lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes and



Scheduled Tribes as per provisions contained in Clause 1 of Articles 341 and 342 of the Constitution respectively.

With a view to provide safeguards against the exploitation of SCs and STs and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable share in elected offices, Government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance. For effective implementation of various safeguards provided in the Constitution for the SCs and STs and various other protective legislations, the Constitution provided for appointment of a Special Officer under Article 338 of the Constitution. The Special Officer who was designated as Commissioner for SCs and STs was assigned the duty to investigate all matters relating to the safeguards for SCs and STs in various statutes and to report to the President upon the working of these safeguards. In order to facilitate effective functioning of the office of the Commissioner for SCs and STs 17 regional offices of the Commissioner were set up in different parts of the country.

On persistent demand of the Members of Parliament that the Office of the Commissioner for SCs and STs alone was not enough to monitor the implementation of Constitutional safeguards, a proposal was moved for amendment of Article 338 of the Constitution (46<sup>th</sup> Amendment) for replacing the arrangement of one Member system with a Multi-Member system while the amendment to Article 338 was still under consideration, the Government decided to set up a Multi-Member Commission through an administrative decision vide Ministry of Home Affairs' Resolution No.13013/9/77-SCT(1) dated 21.7.1978. The first Commission for SCs and STs was, therefore, set up in August, 1978 with Shri Bhola Paswan Shastri as Chairman and other four Members. The field offices of the erstwhile Commissioner for Scheduled Castes and Scheduled Tribes, which were transferred under the control of DG backward classes welfare in 1965, were

brought back under the control of this Commission. The functions of the Commission for SCs and STs broadly corresponded with those of the Commissioner for SCs and STs.

The functions of the Multi-Member Commission set-up in 1978 were modified vide Ministry of Welfare's Resolution No. BC-13015/12/86-SCD VI dated 1-9-1987 and the Commission for SCs and STs was renamed as the National Commission for Scheduled Castes and Scheduled Tribes. It was set up as a National Level Advisory Body to advise the Government on broad policy issues and levels of development of Scheduled Castes and Scheduled Tribes.

The statutory National Commission for Scheduled Castes and Scheduled Tribes (hereinafter referred to as the Commission) came into being consequent upon passing of the **Constitution (Sixty fifth Amendment) Bill, 1990** which was notified on 8-6-1990 and the Rules there under were notified on 3-11-1990. The first Commission under the Constitution (65<sup>th</sup> Amendment) Act was constituted on 12-3-1992 replacing the Commissioner for Scheduled Castes and Scheduled Tribes and the Commission set up under the Ministry of Welfare's Resolution of 1987. The first Commission consisted of Shri Ram Dhan as the Chairman, Shri Bandi Oräon as the Vice-Chairman and Shri B. Sammaiah, Dr. Sarojini Mahishi, Choudhary Hari Singh, Shri N. Brahma and Shri Jina Bhai Darjee as Members.

The second Commission was constituted on 5-10-1995 with Shri H. Hanumanthappa as Chairman and Smt. Omem Moyong Deori as Vice-Chairperson. The Members of the Commission were Shri N.C. Chaturvedi, Shri Anand Mohan Biswas, Ven. Lama Lobzang, Shri Nar Singh Baitha and Shri B. Yadaiah.

The third Commission was constituted in December, 1998 consisting of Shri Dileep Singh Bhuria as the Chairman, Shri Kameshwar Paswan as the Vice-Chairman and Shri Harinder Singh Khalsa, Ven. Lama Lobzang, Shri Chhotray Majhi and Shri M. Kannan as Members, Smt. Veena Nayyar, Member was also appointed as Member vide Ministry of Social Justice and Empowerment" Notification No. S.O. 529 (E) dated 30<sup>th</sup> June 1999. On the resignation of Shri M. Kannan, Shri C. Chellappan was appointed, as Member vides



Ministry of Social Justice and Empowerment's Notification No. S.O. 722 (E) dated 3-7-2000.

The fourth Commission was constituted in March, 2002 consisting of Dr. Bizay Sonkar Shastri as the Chairperson, Ven. Lama Chospel Zotpa, Vice-Chairperson and Shri Vijay Kumar Choudhary, Shri Narayan Singh Kesari and Shri Tapir Gao as Members, Smt. Veena Premkumar Sharma assumed office on 23-8-2002 as Member and Shri C. Chellappan as Member completed his tenure on 2<sup>nd</sup> July, 2003. Shri Sampath Kumar assumed office on 30-9-2003 in place of Sh. C. Chellappan.

Consequent upon the **Constitution (Eighty-Ninth Amendment) Act , 2003** (coming into force on 19-2-2004 vide Notification of that date the erstwhile National Commission for Scheduled Castes and Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes, and (2) National Commission for Scheduled Tribes. The Rules of the National Commission for Scheduled Castes were notified on 20<sup>th</sup> February, 2004 by the Ministry of Social Justice and Empowerment. National Commission for Scheduled Castes was constituted with S/Shri Suraj Bhan, Chairperson, Fakirbhai Vaghela, Vice-Chairperson, Phool Chand Verma, V. Devendra and Smt. Surekha Lambture as Members. Due to sudden and unexpected demise of Dr. Suraj Bhan, Chairperson on 6.8.2006, the duties and function of the chairperson were discharged by Shri Fakirbhai Vaghela, Vice-Chairperson of the Commission.

The Second National Commission for Scheduled Castes in series was constituted on 25.05.2007 with Dr. Buta Singh as the Chairperson, Prof. Narendra M.Kamble, the Vice-Chairperson and Smt. Satya Bahin, Shri Murtyunjay Nayak and Shri Mahendra Boddh respectively as Members.

The Chairman and Vice-Chairman of the Commission has been conferred the status of Union Cabinet Minister and Union Minister of State and the Members of the Commission will enjoy a rank of Secretary to the Government of India.

### **FUNCTIONS AND DUTIES OF THE COMMISSION**

The functions, duties and power of the Commission have been laid down in clauses (5), (8) and (9) of the Article 338 of the Constitution.

**Clause (5) of Article 338 holds that:** It shall be the duty of the Commission:

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

**Clause (8) of Article 338 holds that:** The Commission shall, while investigating any matter 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 and in particular in respect of the following matters, namely:

- (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 documents;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record or copy thereof from any court or office;



- (e) Issuing commissions for the examination of witnesses and documents;
- (f) Any other matter which the President may by rule, determine;

**Clause (9) of Article 338 holds that** The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

### NATIONAL COMMISSION FOR SCHEDULE TRIBES

Prior to the **Constitution (Eighty-Ninth Amendment) Act, 2003**, there existed only one body i.e., the National Commission for Schedule Caste and Schedule Tribes to look after the interest of these communities.

Consequent upon the **Constitution (Eighty-Ninth Amendment) Act, 2003**, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes ( Article 338) and (2) National Commission for Scheduled Tribes (Article 338A). The **Rules of the National Commission for Scheduled Tribes** were notified on 20 February 2004, by the Ministry of Tribal Affairs. The tenure of Chairperson, Vice-Chairperson and Members of the Commission is three years from the date of assumption of the charge by each of them.

The tenure of the first Commission constituted in February, 2004 was over in March, 2007. At present, Smt. Urmilla Singh is the Chairperson of the Commission and Shri Tsering Samphel is Member of the Commission. Both of them joined in the Month of June, 2007. The posts of Vice-Chairperson and two Members are vacant as on date

### FUNCTIONS OF THE COMMISSION

#### (Under Clause (5) of Art. 338A)

1. To investigate and Monitor matters relating to Safeguards provided for STs under the Constitution or under other laws or under Government Order, to evaluate the working of such Safeguards.
2. To inquire into specific complaints relating to Rights and Safeguards of STs;
3. To participate and Advise in the Planning Process relating to Socio-economic

development of STs, and to Evaluate the progress of their development under the Union and any State;

4. To submit report to the President annually and at such other times as the Commission may deem fit, upon/ working of Safeguards, Measures required for effective implementation of Programmers/ Schemes relating to Welfare and Socio-economic development of STs;
5. To discharge such other functions in relation to STs as the President may, subject to the provisions of any law made by Parliament, by rule specify;
6. The Commission would also discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely:
  - (i) Measures that need to be taken over conferring ownership rights in respect of minor forest produce to the Scheduled Tribes living in forest areas.
  - (ii) Measures to be taken to safeguard rights to 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 move 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 (40 of 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.



**NATIONAL COMMISSION FOR WOMEN**

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 (Act No. 20 of 1990 of Government of India) to review the Constitutional and legal safeguards for women; recommend remedial legislative measures, facilitate redressal of grievances and advise the Government on all policy matters affecting women.

**Genesis**

The Committee on the Status of Women in India (CSWI) recommended nearly two decades ago, the setting up of a National Commission for women to fulfill the surveillance functions to facilitate redressal of grievances and to accelerate the socio-economic development of women. Successive Committees / Commissions / Plans including the National Perspective Plan for Women (1988-2000) recommended the constitution of an apex body for women.

During 1990, the central government held consultations with NGOs, social workers and experts, regarding the structure, functions, powers etc. of the Commission proposed to be set up.

In May 1990, the Bill was introduced in the Lok Sabha. In July 1990, the HRD Ministry organized a National Level Conference to elicit suggestions regarding the Bill. In August 1990 the government moved several amendments and introduced new provisions to vest the commission with the power of a civil court. The Bill was passed and received assent of the President on 30th August 1990.

The First Commission was constituted on 31st January 1992 with Mrs. Jayanti Patnaik as the Chairperson. The Second Commission was constituted on July 1995 with Dr. (Mrs.) Mohini Giri as the Chairperson. The Third Commission was constituted on January 1999 with Mrs. Vibha Parthasarathy as the Chairperson. The Fourth Commission was constituted on January 2002 and the government had nominated Dr. Poornima Advani as the Chairperson. The Fifth Commission has been constituted on February 2005 and the government has nominated Dr. Girija Vyas as the Chairperson.

**Constitution of the Commission**

As per the National Commission for Women Act, 1990

1. The Central Government shall constitute a body to be known as the National Commission for Women to exercise the powers conferred on and to perform the functions assigned to, it under this Act.
2. The Commission shall consist of:
  - a. A Chairperson, committed to the cause of women, to be nominated by the Central Government.
  - b. five Members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry potential of women, women's voluntary organisations (including women activist), administration, economic development, health, education or social welfare;  
Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;
  - c. a Member-Secretary to be nominated by the Central Government who shall be :
    - i. an expert in the field of management, organizational structure or sociological movement, or
    - ii. an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.

**Functions of the Commission**

1. The commission shall perform all or any of the following functions, namely:
  - a. Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;
  - b. present to the Central Government, annually and at such other times as the



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| <p>Commission may deem fit, reports upon the working of those safeguard;</p> <p>c. make in such reports recommendations for the effective implementation of those safeguards for the improving the conditions of women by the Union or any state;</p> <p>d. review, from time to time, the exiting provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;</p> <p>e. take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;</p> <p>f. look into complaints and take suo moto notice of matters relating to:-</p> <ul style="list-style-type: none"> <li>i. deprivation of women's rights;</li> <li>ii. non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;</li> <li>iii. non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;</li> </ul> <p>g. call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;</p> <p>h. undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;</p> <p>i. participate and advice on the planning</p> | <p>process of socio-economic development of women;</p> <p>j. evaluate the progress of the development of women under the Union and any State;</p> <p>k. inspect or cause to inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;</p> <p>l. fund litigation involving issues affecting a large body of women;</p> <p>m. make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;</p> <p>n. any other matter which may be referred to it by Central Government.</p> |
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In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission completed its visits to all the States/UTs except Lakshdweep and prepared Gender Profiles to assess the status of women and their empowerment. It received a large number of complaints and acted suo-moto in several cases to provide speedy justice. It took up the issue of child marriage, sponsored legal awareness programmes/Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990 to make them more stringent and effective. It organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female foeticide, violence against women, etc. in order to generate awareness in the society against these social evils.

**NCW has adopted a Multi-Pronged strategy to tackle the problem of violence against women is**

- Generation of legal awareness among women, thus equipping them with the knowledge of their legal rights and with a capacity to use these rights.



- Assisting women in redressal of their grievances through Prelitigation services.
- Facilitating speedy delivery of justice to women by organizing Parivarik Mahila Lok Adalats in different parts of the country.
- Review of the existing provisions of the Constitution and other laws affecting women and recommending amendments thereto, any lacunae, inadequacies or short comings in such legislation's.
- Organizing promotional activities to mobilize women and get information about their status and recommend paradigm shift in the empowerment of women.

### THE PRESENT NATIONAL COMMISSION FOR WOMEN

<b>Chairperson</b>	<b>Dr. Girija Vyas</b>
<i>Members</i>	Ms. Yasmeen Abrar Ms. Neeva Konwar Ms. Manju Snehlata Hembrom Ms. Wansuk Syiem
<i>Member-Secretary</i>	Mr. Samirendra Chatterjee

### NATIONAL HUMAN RIGHTS COMMISSION

The history of human rights movement can be traced from 13th century. Magna Carta (1215), the Petition of Rights (1628), Bill of Rights (1689), Virginia Declaration of Rights (1776), the American Declaration of Independence (1776), the French Declaration of the Rights Man and Citizens (1789), and the American Bill of Rights (1791) were the documents which gave human rights their initial constitutional status. Most of these documents were the result of long struggles of the people. After the First World War, world community started showing its concern for global mechanisms to protect human rights. After the formation of the League of Nations first international effort was made for human rights on 25th September, 1926 in first conference against colonialism and serfdom. Again on 28th June 1930 a conference was held on Forced Labour. But it was only after the

formation of United Nations that human rights movement got momentum, they were defined scientifically and concrete measures were taken for the protection and promotion of human rights. On 10th December 1948 UN adopted the Universal Declaration of Human Rights and subsequently adopted two more covenants (one on Economic, Social and Cultural Rights and other on Civil and Political Rights) on 16<sup>th</sup> December 1966 and they came into force on 3rd January, 1976 and 23rd March 1976 respectively. Both the covenants were binding on the rectifying states.

Another major development occurred in September, 1978 when Commission on Human Rights organized a seminar in Geneva where a set of guideline was evolved regarding the functions of National Human Rights Institutions (NHRIs). These guidelines were endorsed by the UN General Assembly. It created a lot of pressure on the member states to constitute NHRIs. A series of reports, workshops and seminar were organized by the UN to prepare the member states for the cooperation between national and international agencies for Human Rights protection and promotion. The conclusion arrived at, after deliberations of this Workshop, came to be known as *Paris Principles* of 1991.

The role of NHRIs was also emphasized in the *Vienna Declaration and Programme of Action* in 1993. The General Assembly through its resolution 48A/134 of 20th December, 1993 endorsed the same. Since India was closely and actively participating in all these developments, it became obligatory to set up NHRI at home.

On the domestic front also the demand for setting up of a specialized agency to deal with human rights issues was at the peak of it. On the alleged violations of human rights in Assam, Punjab and J& K by the armed forces and terrorists, India was facing criticisms by national and international NGOs and media. Besides these issues like exploitation of women, child labour, exploitation of employees at work place, riots etc. were also haunting the government of India. In the absence of any specialized agency the government was in deep dilemma on how to tackle the problem.



Because of internal and international pressure Government of India introduced the Human Rights Commission Bill in the Lok Sabha on 14th May, 1992. On 28th September 1993 President of India promulgated an ordinance namely Protection of Human Rights Ordinance. This ordinance was replaced by the *Protection of Human Rights Act 1993* which was passed by both the Houses of Parliament. Finally, the *National Human Rights Commission (NHRC)* was constituted under this Act on **12th, October, 1993**. This Act drew its inspiration mostly from international covenants like the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16<sup>th</sup> December, 1966. Even in defining human rights the Act has mentioned about these covenants frequently.

### **Composition of National Human Rights Commission**

According to the Section 3(2) the Commission shall consist of:

- (1) a Chairperson who has been a Chief Justice of the Supreme Court;
- (2) One Member who is or has been, a Judge of the Supreme Court;
- (3) One Member who is, or has been, the Chief Justice of a High Court;
- (4) & (5) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

In addition to this there will be **three ex-officio member** of the Commission

- (6) The Chairperson of the National Commission for Minorities.
- (7) The Chairperson of the National Commission for the Scheduled Castes and Scheduled Tribes, and
- (8) The Chairperson of the National Commission for Women

Besides these nominated members there is a Secretary-General who is the Chief Executive Officer of the Commission and exercises such powers and discharges such functions of the Commission as it may delegate to him.

### **Appointment of Chairperson and other Members of NHRC**

According to the Section 4 of the Act the Chairperson and other Members of the omission are appointed by the President of India. Every appointment under this section is made after obtaining the recommendations of a Committee consisting of:

- (a) The Prime Minister is Chairperson of this Committee. Other members are-
- (b) Speaker of the Lok Sabha;
- (c) Minister in-charge of the Ministry of Home Affairs in the Government of India;
- (d) Leader of the Opposition in the House of the People;
- (e) Leader of the Opposition in the Council of States;
- (f) Deputy Chairman of the Rajya Sabha.

### **Term of office of Members**

According to Section 6 of the Protection of Human Rights Act 1993, *Chairperson* shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

A *Member* shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years, provided that no Member shall hold office after he has attained the age of seventy years.

### **Functions of the Commission**

According to Section 12 of the Act, The Commission performs following functions:

- (a) Inquires, suo-moto or on a petition presented to it by a victim or any person on his behalf, on the violation of human rights or abetment thereof and negligence by a public servant in the prevention of such violation,
- (b) Intervenes in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- (c) visits, under intimation to the State Government, any jail or any other institution under the control of the State



- Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- (d) reviews the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
  - (e) reviews the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
  - (f) studies treaties and other international instruments on human rights and make recommendations for their effective implementation;
  - (g) undertakes and promotes research in the field of human rights;
  - (h) spreads human rights literacy among various sections of society and promotes awareness of the safeguards available for the protection of these rights through publications, media, seminars and other available means;
  - (i) encourages the efforts of non-governmental organizations and institutions working in the field of human rights;
  - (j) such other functions as it may consider necessary for the protection of human rights.

#### **Procedure with respect to armed forces**

While dealing with complaints of violation of human rights by members of the armed forces, the Commission, either on its own motion or on receipt of a petition, may seek a report from the Central Government or make recommendations. The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

#### **Independent status of National Human Rights Commission**

Protection of Human Rights Act 1993 provides the

Commission with functional autonomy as enshrined in Paris Principles. Composition of the Commission, qualifications of the members and method of appointment of the members as enshrined in the Act are such that ensures an independent functioning of the Commission. For example the selection committee to appoint the members the Commission consists of, (A) Prime Minister of India, (B) Speaker of Lok Sabha (C) Minister, and Ministry of Home Affairs Government of India (D) Leader of Opposition in Lok Sabha (E) Leader of Opposition in Rajya Sabha, and (F) Deputy Chairman of the Council of States. The very composition of the selection committee shows that the members of the Commission must have the confidence of not only the ruling party but also the Opposition. Also the presence of Speaker of Lok Sabha and Deputy Chairperson of Rajya Sabha ensures the support of Legislature to these members. In addition to this, presence of three members from judiciary also provides further legitimacy and independence to the Commission. Security of the tenure of the members, removal of the members by the President of India on the ground of proved misconduct or incapacity and the budget of the Commission which is passed by the Parliament(Section 32(1) and (2)) are certain other features of the Act to provide independence to the Commission.

#### **Annual and special reports of the Commission**

The Commission submits an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report. These reports are laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission.

#### **Evaluation**

At the time of its announcement, NHRC was seen with lot of skepticisms. To some it was going to be a 'toothless tiger', while others found it to be a mere 'post-office' to provide a certificate of good



behavior to the government for its wrong doings rather than to ensure better protection of Human Rights. But thanks to the Committee who prepared the draft of the Commission and made every attempt to keep it (NHRC) independent of political interference. Although NHRC is still searching its ground yet it owns an extensive account of achievements during a short span of thirteen years.

### **PRESENT COMPOSITION**

**Hon'ble Justice Shri S. Rajendra Babu**

*Chairperson*

*Members*

**Hon'ble Justice Shri Govind Prasad Mathur**

**Hon'ble Justice Shri Babulal Chandulal Patel**

**Shri Satyabrata Pal**

*Vacant*

**Mohammad Shafi Qureshi**

*Chairperson, National Commission for Minorities*

*Ex-officio Member*

**Dr.Girija Vyas**

*Chairperson,National Commission for Women*

*Ex-officio Member*

### **NATIONAL COMMISSION FOR MINORITIES**

Genesis of National Commission for Minorities

The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978 which specifically mentioned that, "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State Laws and

in the government policies and administrative schemes enunciated from time to time. Some time in 1984 the Minorities Commission was detached from Ministry of Home Affairs and placed under the newly created Ministry of Welfare.

With the enactment of the National Commission for Minorities Act, 1992, the Minorities Commission became a statutory body and renamed as National Commission for Minorities.

The first Statutory National Commission was set up on 17th May 1993. Vide a Gazette notification issued on 23rd October 1993 by Ministry of Welfare, Government of India, five religious communities viz; the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities. As per the 2001 Census, these five religious minority communities constitute 18.42% of the country's population.

### **Functions of National Commission for Minorities**

As per Section 9(1) of the NCM At, 1992, the Commission is required to perform the following functions:

- (a) evaluation of the progress of the development of minorities under the Union and States;
- (b) monitoring of the working of the safeguards for minorities provided in the Constitution and in laws enacted by Parliament and the State Legislatures;
- (c) making recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;
- (d) looking into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities;
- (e) getting studies to be undertaken into the problems arising out of any discrimination against minorities and recommending measures for their removal;
- (f) conducting studies, research and analysis on the issues relating to socio-economic and educational development of minorities;



- (g) suggesting appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;
- (h) making periodical or special reports to the Central Government or any matter pertaining to minorities and in particular the difficulties confronted by them; and
- (i) any other matter, which may be referred to it by the Central Government.

### PRESENT COMPOSITION

**Shri Mohamed Shafi Qureshi**, Chairperson

**Shri Michael P Pinto**, Vice Chairperson

**Shri Dileep Padgaonkar**, Member

**Smt. Zoya Hasan**, Member

**Dr. (Miss) Mehroo Dhunjisha Bengalee**, Member

**Sh. Harvendra Singh Hanspal**, Member

Major initiatives and achievements of National Commission for Minorities in redressing the problems relating to education of the minorities.

Five religious communities viz. Muslims, Christians, Sikhs, Buddhists and Parsis have been declared as minority communities by the Union Government notification dated 23.10.1993 issued by Ministry of Welfare. As per the functions of NCM laid down in Section 9 (1) of the NCM Act,

1992, the Commission has been looking into the educational problems of the five religious communities of the country. The educational problems being referred to the NCM from time to time by the organizations, educational institutions and associations of the religious minorities as well as the individuals have been mainly of following nature:

- (i) Non-recognition of educational institutions and denial of minority status to such institutions by the State Governments.
- (ii) Refusal to permit establishment of educational institutions by the religious minorities.
- (iii) Denial of affiliation of minority education institutions to the Universities.

- (iv) Refusal or delay in releasing grant-in-aid to minority educational institutions.
- (v) Unreasonable interference into the management of the minority educational institutions by the State Government.
- (vi) Refusal or delay in filling up of vacancies of teachers (particularly Urdu and Punjabi language teachers) in the schools run by the religious minorities.
- (vii) Shortage of Urdu and Punjabi text books in the schools run by the Muslim and Sikh communities respectively.

The **major achievements** of the National Commission for minorities in solving the educational problems of religious minorities of the country are given below:

- (i) As a result of NCM intervention, Government of Rajasthan gave No Objection Certificate on 22.7.2002 to establishment of Khalsa Degree College at Anupgarh.
- (ii) Darul Rehmat Trust was running an aided girls school at Kausa (Maharashtra). The school was later converted to a co-educational institution. The Government of Maharashtra stopped grant-in-aid to the Trust on the ground that the girls school was converted to a co-educational school. As a result of NCM intervention, the grant-in-aid from the State Government to the Trust was restored.
- (iii) In the year 2000, Government of Madhya Pradesh had issued an order reducing grant-in-aid to private aided schools (including minority educational institutions) of the State and finally stopped the grant within five years. As a result of NCM intervention, the State Government took a decision on 15.3.2001 to exempt Subhania Anjuman Islamia School Bilaspur from the order.
- (iv) On 4.11.2001, NCM was able to facilitate grant of minority status to Guru Nanak Engineering College, Hyderabad by Government of Andhra Pradesh.
- (v) During 2000-01, the Commission came to know that two private publishers namely, M/s. Nitu Publications, Delhi and M/s. Children Book Centre, Agra



- have brought out Hindi text books with imaginary pictures of Prophet Mohammad for Class IV students of Delhi and UP schools respectively. As a result of NCM intervention, Government of UP took police action on 11.7.2001 against M/s. Children Book Centre, Agra and Government of NCT of Delhi issued an order on 10.7.2002 forfeiting all the copies of books published by M/s. Nitu Publications.
- (vi) On intervention of the Commission, the Government of Karnataka as well as Government of Gujarat declared Good Friday as a public holiday from the year 2004 onwards.
  - (vii) On account of NCM intervention, Government of Maharashtra allotted land on 4.8.2004 for construction of building of Dr. Zakir Hussain School, & Junior College, Pulgaon (Maharashtra) and gave permission on 10.8.2004 to Al-Falah Education Society (Khamgaon) to open one Urdu Medium High School.
  - (viii) As a result of NCM intervention, Government of U.P. granted minority status to as many as 76 Higher Secondary schools on 9.6.2004. Government of U.P. has also given minority status to S.S. Willayat Hussain Degree College, Deoria on 5.7.2004 as a result of persistent efforts of NCM.
  - (ix) Before 2003, winter holidays in Kendriya Vidyalayas used to be during 22nd December – 2nd January. The duration was shifted to 5th January – 18th January from academic session 2003 onwards. NCM took up the matter with Kendriya Vidyalaya Sangathan as well as Ministry of HRD. On 27.10.2004, the Ministry of HRD issued a notification reverting the winter holidays in KVs to the earlier duration of 22nd December – 2nd January.
  - (x) 'Nazul Land' is the land which is given on lease by the municipal authorities to private persons for non-agricultural purposes. This type of land being barren, no agricultural activity is possible on it.
- The President of Dr. Zakir Hussain Urdu High School & Junior College, Phulgaon (Maharashtra) had complained to this Commission that since 1976, the institution had been applying to the district administration for allotment of 'Nazul Land' in order to construct a school building but their request was not being acceded to. Consequent on Commission's intervention, the Maharashtra Government allotted two plots of land having a total area of 2250 sq. m. to the school in August, 2004.
- (xi) On NCM recommendation, Ministry of Human Resource Development wrote to UGC advising it to issue a direction to the Universities to use their discretionary powers to allot one or two seats in colleges for deserving Parsi students from the academic year 2005-2006 onwards. The University of Mysore has already implemented this direction for the academic year 2006-07. The Mumbai University is awaiting confirmation from its Chancellor for implementation of the direction.
  - (xii) A number of Sikh scholars approached NCM with objections against portions of 8 textbooks of NCERT on Social Sciences including History. Some Jain scholars also invited attention of the Commission to some portions of a History textbook of NCERT on Ancient India for Class XI which according to them were hurting their religious sentiments. The objections raised by the Sikh and Jain scholars were forwarded to Director, NCERT on 19.8.2005 recommending necessary modifications in these textbooks, keeping in view the objections raised by the Sikh and Jain scholars and the improvements suggested by them. The Commission had also recommended to Director, NCERT that the objectionable portions be deleted from the NCERT textbooks at the earliest. This matter was discussed with Director, NCERT and his team of officers on 17.11.2005 and 30.1.2006 in the Commission. The Commission was



informed that 3 of the textbooks against which the Sikh scholars raised objections were withdrawn from academic session 2005-2006 and one textbook from academic session 2006-07. As regards the remaining 4 textbooks objected to by the Sikh scholars, the modifications recommended by NCM were carried out. With reference to the book on Ancient India for Class XI which was objected to by Jain scholars, NCERT issued a circular on 11.12.2005 to CBSE, Kendriya Vidyalayas, Navodaya Vidyalayas and the States/U.Ts deleting the objectionable portions and replacing them with appropriate text.

### NATIONAL BACKWARD CLASSES COMMISSION

**Article 340** of the Constitution provides for the appointment of a Commission to investigate the conditions of and the difficulties faced by the socially and educationally backward classes and to make appropriate recommendations. The article reads as under:

"340. Appointment of a Commission to investigate the conditions of backward classes -

(1) The President may by order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of the socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations as to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any state and the conditions subject to which such grants should be made, and the order appointing such commission shall define the procedure to be followed by the Commission.

(2) A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and make such recommendations as they think proper.

(3) The President shall cause a copy of the report so presented together with a memorandum explaining the action taken thereon to be laid before each house of Parliament."

The Supreme Court of India in its Judgement dated 16.11.1992 in Writ Petition (Civil) No. 930 of 1990- **Indira Sawhney & Others Vs. Union of India and Others**. - directed the Government. of India, State Governments. and UT Administrations to constitute a permanent body in the nature of a Commission or Tribunal for entertaining, examining and recommending upon requests for inclusion and complaints of over-inclusion and under-inclusion in the list of OBCs.

In pursuance of the direction of the Supreme Court, the Government. of India enacted the National Commission for Backward Classes Act, 1993 (Act No. 27 of 1993) and set up a National Commission for Backward Classes at the Centre.

The Act came into effect on the 2nd April, 1993. Section 3 of the Act provides that the Commission shall consist of five Members, comprising of a Chairperson who is or has been a judge of the Supreme Court or of a High Court; a social scientist; two persons, who have special knowledge in matters relating to backward classes; and a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India.

### Constitution of National Commission for Backward Classes

1. The Central Government shall constitute a body to be known as the National Commission for Backward Classes to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
2. The Commission shall consist of the following Members nominated by the Central Government:
  - (a) a Chairperson, who is or has been a Judge of the Supreme Court or of a High Court;
  - (b) a social scientist;
  - (c) two persons, who have special knowledge in matters relating to backward classes; and



**Functions of the Commission**

- (1) The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.
- (2) The advice of the Commission shall ordinarily be binding upon the Central Government.

**Powers of the Commission:** The Commission shall, while performing its functions under sub-section (1) of section 9, have all the powers of a civil court trying a suit and in particular, in respect of the following matters, namely:

- (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 or copy thereof from any court of office;
- (e) issuing commissions for the examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

**Periodic revision of lists by the Central Government-**

- (1) The Central Government may at any time, and shall, at the expiration of ten years from the coming into force of this Act and every succeeding period of ten years thereafter, undertake revision of the lists with a view to excluding from such lists those classes who have ceased to be backward classes or for including in such lists new backward classes.
- (2) The Central Government shall, while undertaking any revision referred to in sub-section (1) consult the Commission.

**PRESENT COMPOSITION**

*Chairperson*

**Justice (Retd.) S. Ratnavel Pandian**

*Member*

**Secretary- Shri Lakshmi Chand**

*Member*

**Dr. Subba Somu**

*Member*

**Shri Ram Awadhesh Singh**

*Member*

**Shri. Abdul Ali Azizi**

