

**ACTION TAKEN MEMORANDUM ON THE RECOMMENDATION CONTAINED IN THE 7<sup>TH</sup>  
ANNUAL REPORT OF THE NATIONAL COMMISSION FOR THE PERIOD  
FROM 1999 TO 2000**

**Chapter-15 Para No. 15.1.2 Page No. 74**

**1. RECOMMENDATION**

The Commission found that many of its recommendations were not being taken seriously by the concerned Government and often not implemented. In many cases, the concerned authorities did not even bother to acknowledge the receipt of recommendations. The Commission examined the legal provisions of the NCM as compared to NHRC and National Commission for SC/ST regarding the power of investigation/enquiry. Both the NHRC and NCSC/ST Acts provide adequate powers to those Commissions but no such power had been given to the National Minorities Commission. Commission recommended to the Ministry of Social Justice & Empowerment on 4.4.2000, that the NCM Act, 1992 may be suitably amended to provide this Commission with adequate powers to investigation/enquiry at par with the powers of NHRC and NCSC/ST.

**ACTION TAKEN**

The recommendations made by the Commission over the years, in its various Annual Reports, are being given due importance. Till date, a total of fourteen Annual Reports of erstwhile Minorities Commission for the period 1978-79 to 1992-93 and Four Reports of the Statutory Commission for the years 1993-94 to 1996-97 have already been laid in Parliament along with Action Taken Memoranda, in respect of the recommendations contained in these annual reports.

Further, it has been decided to give constitutional status to the National Commission for Minorities, which would infuse greater confidence among the minorities. Accordingly, the Constitution (One Hundred and Third Amendment) Bill, 2004 and National Commission for Minorities (Repeal) Bill, 2004 have been introduced in the Lok Sabha on 23.12.2004.

**Chapter-15 Para No. 15.1.3 Page No. 75**

**2 RECOMMENDATION**

Appeal for an enhanced minority presence in Legislatures

In June, 1999, the Commission took note of the declaration of fresh General Elections in the country and recommended to all the major political parties that they should try to enhance the representation of Minorities in Parliament and State Legislatures so as to ensure about a hundred seats in the Lok Sabha for persons belonging to various minority communities without resorting to any reservation but bearing this in mind at the time of nominating their candidates.

**ACTION TAKEN**

Since the appeal has been made by the Commission to all political parties, for enhanced minority presence in Parliament/legislature, no action is required to be taken by the Central Government. It is for the political parties to decide.

**Chapter-15 Para No. 15.1.4**

**3. RECOMMENDATION**

Publications of Census data on socio-economic and educational status of minorities

Commission recommended that the Census data collected by the Registrar General of India, particularly its Economic, Socio-cultural, Migration, House and Household amenities tables should be cross tabulated on the parameter of religion as well and should be published. This should be ensured in respect of the forthcoming Census of 2001. This recommendation was forwarded to the RGI & Census Commissioner and Union Ministries of Home Affairs & Social Justice & Empowerment on 24.11.1999.

#### **ACTION TAKEN**

Religion data cross-classified by socio economic variables such as literates, workers and non-workers, category of workers by sex and residence have been published in the report titled, 'The First Reports of Religion Data-Census 2001' which was brought out in September, 2004.

### **Chapter-15 Para No. 15.2.1**

#### **4. RECOMMENDATION**

##### Minority Status Certificate

Commission vide a ruling dated 7.4.99 clarified that declaration regarding status of an already existing Minority Educational Institution is only an acceptance of a legal character and recognition of a factual position that the institution was established and is being administered by a Minority community.

#### **ACTION TAKEN**

The National Commission for Minority Educational Institution (NCMEI) Act, 2004, as amended in the year 2006, addresses this issue and deals with this problem comprehensively.

### **Chapter-15 Para No. 15.2.1**

#### **5. RECOMMENDATION**

##### Exemption from NET Provision

Commission made a statutory recommendation to UGC and M/o Human Resources Development for the grant of exemption to candidates belonging to minority communities from the requirement of clearing UGC's NET for 15 years for their appointment against teaching posts in all Colleges and Universities. The Commission further recommended that those minority candidates from the requirement of 55% marks at the Masters level. M/o HRD, however did not agree to the recommendation as they felt that such exemption would be detrimental to the quality of education.

#### **ACTION TAKEN**

As per recommendations of the Committee constituted to look into all relevant issues pertaining to NET as eligibility for teaching, exemption from NET could be given for those holding M.Phil degrees for teaching undergraduate courses, and those holding Ph.D degrees for teaching Post-Graduate courses. The University Grants Commission in its meeting held on 7.4.2006 has given in principle approval to these recommendations. These recommendations apply to all candidates including minorities.

### **Chapter-15 Para No. 15.2.6 Page No.78**

#### **6. RECOMMENDATION**

##### NCERT-Report on teaching of Fundamental Duties

The Commission considered the interim report submitted by a committee constituted under the Chairmanship of Justice Verma to operationalise the teaching of Fundamental Duties to the citizens of the country. The Commission endorsed the suggestion that Fundamental Duties should form part of the curriculum at all levels of education. However, the Commission also felt that Minority Rights, as part of Fundamental Rights and Human Rights, should also be taught along with Fundamental Duties. This recommendation of the Commission was conveyed to the Department of Education, Ministry of Human Resources Development.

#### **ACTION TAKEN**

The NCERT has formulated the revised National Curriculum Framework wherein all these aspects have been taken care of.

### **Chapter-15 Para No. 15.2.8**

#### **7. RECOMMENDATION**

##### Denial of assistance to an Urdu medium School- Calcutta Port Trust

The West Bengal Minorities Commission referred a case of discrimination made by the Calcutta Port Trust in not giving grant to Maulana Azad Urdu School, Calcutta. Commission wrote to the Ministry of Surface Transport that the School deserves assistance from CPT for the services they are rendering to a section of the population including families of CPT employees, even though the school may not have a legal right to claim financial assistance from CPT.

#### **ACTION TAKEN**

Kolkata Port Trust (KoPT) has not discriminated against the Maulana Azad Urdu Primary School, Kolkata. Instead, KoPT has allotted a plot of prime land measuring 437.108 sq. meters at a token rent and has also allowed free supply of electricity & water to Maulana Azad Urdu School, Kolkata.

### **Chapter-15 Para No. 15.3.1 Page No. 80**

#### **8. RECOMMENDATION**

The Commission wrote to the Development Commissioner (Handicrafts), Ministry of Textiles asking that the services of Shri. Altaf Hussain, Astt. Director, O/o Development Commissioner, Anantnag be regularized against the post of A.D. w.e.f. the date of his continuously officiating in that post.

#### **ACTION TAKEN**

Necessary action has been taken by the concerned Ministry and the services of Shri Altaf Hussain who was holding the post of Assistant Director (A&C) on adhoc basis has been regularized.

### **Chapter-15 Para No. 15.3.2**

#### **9. RECOMMENDATION**

The Commission recommended the reinstatement of Shri. Golam Khan, whose services were terminated by the Central Water Commission, Bhubaneswar in spite of his release by a Court under the Probation of Offender Act, in a case not concerning his office.

#### **ACTION TAKEN**

The penalty of removal from service of Shri Golam Khan reviewed and Shri Golam Khan has been reinstated in service.

### **Chapter-15 Para No. 15.3.4**

#### **10. RECOMMENDATION**

The Commission recommended that the provisional pension of Sh. H.P. Singh, ex-officiating Commandant, BSF should be released and the other terminal benefits to him like Gratuity, GPF, CGEGIS etc. paid immediately. The MHA should also ensure that the interest on late payment of Gratuity should be paid by deducting the amount of interest from the salary of all those officials, who were responsible for the delay in payment of Gratuity to Shri Singh. The Commission's recommendation was sent to the MHA.

#### **ACTION TAKEN**

At present, all accounts of Sh. H.P. Singh, ex-officiating Commandant, BSF stand settled and he is receiving his pension regularly, as admissible under the Rules.

### **Chapter-15 Para No. 15.3.3 Page No.82**

#### **11. RECOMMENDATION**

##### Working of the NMDFC: NCM Suggestions

The Commission made a number of suggestions to improve the working of the NMDFC which are mentioned below:-

- (a) A comprehensive review of the functioning of the NMDFC be conducted for which the Ministry of Social Justice & Empowerment should constitute an expert Committee. The report of this Expert Committee should be further examined by the high powered panel and endorsed by the Commission. The functioning of the NMDFC should be restructured on the basis of this review/report.
- (b) The channelizing agencies of the NMDFC nominated by the State Government were not coming up to expectations in dealing with the problems of the minorities. The Commission reiterated the need to set up an independent State Minorities Corporation. The Commission wrote to all State Governments on 25<sup>th</sup> August, 1999 impressing upon them to fully pay their equity contributions to NMDFC and 10% share of the loans sectioned directly by NMDFC for the individual projects well within time.
- (c) The difficulties faced by the NMDFC in securing adequate guarantees for their loans should be removed and the respective State Government should themselves provide the security to the loans. In case of UTs, such a guarantee is to be provided by the MOSJ&E itself. The States of Meghalaya, NCT of Delhi and Sikkim who have established separate channelizing agencies of the NMDFC should make these financially and infrastructurally strong.

#### **ACTION TAKEN**

The Government has constituted an Expert Committee to suggest an action plan for improving the strategy and operational performance of the National Minorities Development and Finance Corporation (NMDFC). All possible efforts have also been made to impress upon the State Governments of the need to accord priority for payment of equity contribution to NMDFC and strengthening the infrastructure at State level for implementation of the programmes of NMDFC.

### **Chapter-15 Para No. 15.6.3**

#### **12. RECOMMENDATION**

In the context of the complaints of harassment of the Muslim owner of property by way of summons from the SDM (Darya Ganj), Delhi, the Commission recommended that the Enemy Property Act 1968 be repealed forthwith and all cases pending under it, in Delhi and elsewhere, be wound up without taking any further action under its provisions. Till such time as the said Act is repealed the Commission made the following recommendations to the Central Govt. Ministry of Commerce and Govt. of NCT Delhi, in exercise of its powers under Section 9(1) (c) of the NCM Act, 1992.

1. The Govt. of NCT Delhi should stop forthwith administering summons/Notices through the police for verification of the present status of any property declared as Enemy Property or a property suspected to be an Enemy Property. The Notices should be sent through the normal communication channels and the 'dasti' servicing of notices be resorted to only in case of persistent compliance.
2. The State Govt./Custodian of Enemy Property should not initiate action for verification of any property suspected to be enemy property on the basis of a complaint, till such time the identity of the complainant is established by him that the property in question ever belonged to a foreign national. In addition to proof, the complainant should first submit an affidavit testifying on oath about the facts of the case, before any further proceeding is initiated for verifying the correct status of the property. Moreover the District authorities should first check up the relevant revenue records and complete in-house documentation before issuing notice to any individual. The Notices served should specify in detail the relevant clause of the Enemy Property Act, 1968, under which the action has been initiated. It should specifically mention that the purpose of the notices is to determine the ownership of the property and the status of the existing incumbent of the property and not to establish their credentials as an Indian National.
3. The cases related to verification of the status of a suspected/declared Enemy Property or recovery of rent/arrears of rent of an already declared Enemy Property are a matter of civil jurisdiction and in no way can be regarded as a criminal matter. As such, the district authorities should refrain from filing an FIR against the occupants/claimants of any enemy property.
4. The Custodian of Enemy Property should ensure that no property notified as Wakf Property under the relevant Statute is ever declared as Enemy Property. Action should be initiated to ensure that Wakf Property is kept outside the purview of the Enemy Property Act, 1968.
5. Properties declared as evacuee property during 1947, but later restored to the owners by the orders of a competent authority i.e. either Court or Custodian of Enemy Property do not under the purview of Enemy Property Act, 1968. No verification needs to be done in such cases should be immediately withdrawn by the Govt.
6. The guidelines regarding the preservation and Management of Enemy Properties in India vested in the Custodian of Enemy Property of India issued by CEP has no legal basis and should therefore be immediately withdrawn. Instead the Central Govt. should formulate rules for carrying out the purpose of the Act under Section 23 of the EP Act, 1968.
7. The Administration/CEP should not recover/demand any rent/arrear of rent for a property alleged to be Enemy Property till such time as it is notified so under Section 12 of the Enemy Property Act, 1968.

#### **ACTION TAKEN**

Repeal of the Enemy Property Act, 1968, is not possible till the Government of India and Governments of Pakistan and Bangladesh (erstwhile East Pakistan) come to an agreement to return the properties of the migrants of each country bilaterally. All enemy properties, wherever located have already vested in the Custodian of Enemy Property (CEP). Detection of these properties is a continuous process and it would be contrary to the object of the Act if identification and take over process is stopped from a fixed

date. Such an action can be considered as discriminatory by treating two enemy properties differently. All properties belonging to enemy nationals are vested in the Custodian through the notifications issued in 1965, 1966 & 1971 by the Central Government under the Defence of India Rules 1962/1971 and Section 5 & 24 of the Enemy property Act, 1968, which provide for continued vesting of said enemy properties.

1. Notices are served in accordance with the procedure laid down in the Guidelines issued on 17<sup>th</sup> April, 2000. It is accepted that 'dasti' service of notices should be done only in case of persistent non-compliance.
2. The recommendations of Commission are acceptable in general except that testifying on oath in the form of affidavit by the complainant would not be desirable as the complainant may not like to be exposed for fear of his life from the occupants of the valuable property. The procedure for issuing notices, etc. has been prescribed in para 3 of the new guidelines issued on 17.04.2000.
3. There is no instance of filing of an FIR to settle matters of a civil nature.
4. No Wakf Property has been ever been declared as Enemy Property. However income if any, from the said Wakf Property accrued/received by any person on behalf of enemy national can be recovered from him as the movable property of enemy nationals is also vested in the Custodian. Besides, in cases where the sole beneficiary of the enemy national, the property may be vested with the custodian. Besides, in cases where the sole beneficiary of the enemy national and the Wakf property is for personal benefit of the enemy national, the property may be vested with the custodian.
5. No such cases of declared Evacuee Property taken over as enemy property have been noticed. Commission has also not specified any such case. It may, however be noted that in case the property was not declared as Evacuee Property although it belonged to Pakistani National before 10.9.1965, the same is automatically vested in the Custodian of Enemy Property by the notification issued on that date and will have to be taken over by the Custodian after following principles of natural justice. There may be also cases where certain property has been recently declared as Evacuee property. In such cases, if a complaint is received regarding fraud or forgery, the declaration may be reopened by following legal remedies in this context after making necessary enquires in the matter.
6. The CEP had issued guidelines for preservation and management of enemy properties under Section 8 of the Act. The guidelines were last issued on 17.4.2000. As the guidelines issued by the CEP in this regard takes care of all the aspects of preservation and management of the enemy properties, no need has been felt to frame rules under the Act as specified under Section 23.
7. The recommendations are accepted. The cases contrary to the recommendation of the Commission, if noticed, shall be reviewed and steps will be taken to notify them under Section 12 of the Enemy Property Act, 1968.

### **Chapter-15 Para No. 15.6.4 Page No.84**

#### **13. RECOMMENDATION**

##### Fresh Communal Homicide in Orissa

In the last week of August, 1999, the alleged killer of Dr. Graham Stewart Staines and his children in Orissa struck again, this time to burn alive a young Muslim trader. Before long a Christian priest, Arul Doss, was completely burned down. The Commission took a serious view of these incidents and urged the State and Central Governments to take stern deterrent action, recommending that these incidents should not be viewed as ordinary crimes connected with maintenance of law and order, which is a State subject. Since the incidents relate to the life and safety of the Minorities in the country, the Central Government should also act firmly and take whatever steps it considered imperative.

## **ACTION TAKEN**

Law and order is a State subject and such as such all such matters fall within the purview of States. Accordingly, the recommendations has been forwarded to the Government of Orissa for taking appropriate action in accordance with Section 9(3) of the NCM Act, 1992.

The Central Government had set up the Justice D.P. Wadhwa Commission to investigate into the murder of Dr. Graham Stewart Staines and his children. The Report of the Justice D.P. Wadhwa Commission, along with the Action Taken Report on the subject, has been laid in both Houses of Parliament.

Further, the CBI had charge sheeted the accused persons to stand trial. The trial was completed on 15.9.2003 and the court awarded life sentence to the accused. The State Government has completed the investigation regarding murder of Father Arul Doss, and a charge sheet was submitted on 7.7.2000 against the accused.