

PROCEEDINGS OF THE TRIBES ADVISORY COUNCIL MEETING DT.10.9.2004
HELD IN THE 3RD FLOOR CONFERENCE HALL OF THE SECRETARIAT

1. The list of members present and other Officers participated are given in Annexure - 'A'.
2. In the beginning Hon'ble Chief Minister, as Chairman of the Council, administered oath to the newly nominated ST woman member Smt. Sumani Jhodia.
3. Chief Minister, Orissa initiated the discussions by welcoming all the Members to the newly constituted Tribes Advisory Council (TAC). He expressed the concern of the State Government for all-round development of the Scheduled Tribes and Scheduled Areas in the State and briefly described the progressive steps taken by the Government for the welfare of the tribal communities. He referred to the constitution of the Task Force at the State, District and Sub-divisional level and expected that the functioning of the Task force will go a long way in effectively tackling important matters related to land and forest as well as implementation of various rules and regulations and welfare measures concerning the tribals and to check their exploitation by others.
 - 3.1 The Chief Minister also expressed concern over the drop out rate in the schools and emphasized the need to arrest it. He also informed the members about the emphasis being given to proper identification of thrust areas and adoption of cluster approach for promotion of income generating activities among the tribals, and the attention being given to the marketing of the agricultural produce and forest produce benefiting the tribals. He stressed on promotion of vocational skills among ST youth through ITIs and polytechnics which can create self-employment opportunities. He also identified the priority given by the Govt. for development of irrigation potential, improving connectivity and development of educational facilities so as to ensure all-round development of the tribal population. He informed about inclusion of 114 tribal communities in the Constitution (ST) Order in respect of Orissa in January, 2003. He requested the Members for giving them positive suggestions for taking up tribal development in the State and sought their cooperation in achieving these goals.
4. The Hon'ble Minister(S) in his address to the Council sought wholehearted cooperation of all the Members in tackling the problems of tribals and to ensure for them a better standard of life. He also assured the Members about the regularity in holding TAC meetings in future.

5. On being requested by the Chief Minister, some of the TAC Members made the following observations which were noted for guidance and compliance.

- (a) Holding of TAC meeting at regular intervals so that a time gap of more than six months do not occur in between two meetings;
- (b) The Task Forces at different level should meet regularly to take up their assigned task and give timely feedback to the Government and the TAC so as to make their constitution meaningful;
- (c) Timely payment of scholarship to the ST students;
- (d) Filling up of important vacant posts in the ITDAs;
- (e) ITDA work programme should be subject to more rigorous monitoring to ensure quality of construction;
- (f) Promotion of various skills amongst tribals through training in ITIs /Poly-technics;
- (g) Repairs of tribal schools and hostels.

6. Thereafter the Chairman invited the Members to discuss on agenda items and offer their valuable suggestions.

6.1 **Confirmation of the proceedings of the meeting of the Tribes Advisory Council held on 30.10.2002**

The proceedings of the meeting of the TAC dated 30.10.2002 was confirmed.

6.2 **Follow up action taken on the proceedings of the meeting of the TAC held on 30.10.2002.**

Some members expressed concern over the delay on the part of School & Mass Education Department in submission of report by the Expert Linguistic Group headed by Dr. D.P.Patnaik about the use of tribal languages in school curriculum as medium of instruction. However, the request of the School & M.E. Dept. for further three months' time to submit the report was considered and accepted by the TAC. The TAC also recommended for association of Sri K.C.Majhi, ex-Deputy Director in the Expert Linguistic Group in view of his earlier experience in this regard.

6.3 **Evaluation of the working of the protective legislation**

Several Members drew the attention of the Council to the amended provisions of the Orissa Schedule Areas Transfer of Immovable Property (By STs) Regulation, 1956 as amended by regulation-1 of 2002 which prohibits the sale of tribal land to a non-ST person even in execution of decrees in the court. The members observed that because of such restriction, even the Commercial banks and other financial institutions are not willing to sanction loan by way of mortgaging tribal land. As a result, the tribals are deprived of getting bank loan for different

purposes and the protective legislation proves to be counter productive in so far as availing bank loans is concerned. The suggestion of the Chief Secretary as well as some members to bring about some amendment in the existing provisions of Regulation-2 of 56 so as to permit mortgage of land with banks and financial institutions was unanimously agreed by the TAC to be referred a committee to suggest suitable amendments.

6.4 Inclusion of MURIA / PAIKA BHUYAN / PAIK BHUYAN, PAHARIA (KAMAR) & ODO communities in the Constitution (ST) Order.

6.4.1 The TAC, after going through the views of the SC ST Research & Training Institute as circulated in the agenda, decide to recommend for inclusion of "Muria, Paika Bhuyan/ Paik Bhuyan, Paharia (Kamar) and Oran Mudi (Mudi) in the Constitution (ST) Order in respect of State of Orissa as STs or Sub-Tribes or synonyms of the existing Tribes or Sub-Tribes, as the case may be.

6.4.2. In course of the discussions, some of the members not only insisted for inclusion of the left out tribes, like 'Bhatara' and 'Jhodia' in the Constitution (ST) order by pursuing the matter with Govt. of India since these are already recommended earlier in ST & SC Dev. Dept. letter No.42601 dt.23.11.2002, but also brought up proposals for inclusion of several other tribes/ sub-tribes like Rautia, Puran, etc. for inclusion in the Constitution (ST) Order. The Chief Minister asked the Hon'ble Members to give specific proposals to the ST & SC Development Department in writing so that those proposals can be thoroughly studied and a consolidated proposal for inclusion or exclusion of such tribes can be brought before the next meeting of the TAC as an agenda item for consideration. In response to this, proposals were received in the meeting itself from some of the members for consideration and inclusion of sub-tribes like Puran, Mohanta, Paudi Bhuyan, Khandait Bhuyan as Paraja Bhuyan, Bhanj Puran, Tamudia Puran in the Constitution (ST) Order. It was decided to refer these to the Tribal Research Institute for detailed investigation and submission of report for consideration of the Council in its next meeting.

6.5 Issue of settlement of Ac. 33731.18 of Jungle Kisam Land (without any tree growth) in the village of Nowrangpur district, presently under encroachment of 24,547 landless Scheduled Tribes.

6.5.1 The matter of settlement of Ac.33731.18 govt. land classified as Jungle, Patit and Gochar etc. which are under encroachment of 24,547 encroachers was discussed at length. In course of deliberations, some members drew the attention of the Council to the provisions contained in Para-5(1) of part-B of the 5th Schedule of the Constitution of India to invoke the powers of the Governor by issuing public notification to direct that any particular Act of the Parliament or of the Legislature of the State shall not apply to a Scheduled Area or any part

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thereof in the State in so far as the provisions of Orissa Govt. Land Settlement (OGLS) Act, Orissa prevention of Land Encroachment Act (OPLE) and Forest Conservation Act are concerned. They suggested that the problem of settlement of the encroached land in Raigarh area of Nowrangpur district can be tackled by relaxing the provisions of those Acts and Rules.

6.5.2 Revenue Secretary, however, suggested that instead of invoking such special provisions of the Constitution for a particular area, it would be advisable to take up settlement of as much land as possible within the provisions of existing Act and Regulations. The Council also unanimously felt that invoking special provisions of the Constitution for a particular area may give rise to plethora of demands in other areas and decided that all possible steps be taken to ensure early settlement of land with landless tribals including pursuing of cases in the Hon'ble Supreme Court and taking up this issue with Govt. of India in right earnest.

6.6 Issue of regularization of pre and post 1980 Forest encroachers.

This matter was also discussed at length in view of the provisions of the Forest Conservation Act, 1980 and the pending case before the Supreme Court of India. The Members unanimously felt that the pre 1980 encroachments should be strongly recommended for early settlement. The PCCF informed the Council about the position of the pending case in the Supreme Court. Secretary, Revenue Department informed that there is a PIL pending before the Apex Court on the issues of food security in such areas. He suggested that the Council may consider to recommend to the State Govt. to move the Supreme Court for analogous hearing of the PIL on food security along with Writ Petition No. 202 of 1995 - T.N.Godavarman Thirumalkad Vs. Union of India. The Council after discussions endorsed the proposal.

6.7 District-wise reservation for SCs/STs at District level recruitment in Posts & Services as per their population & Amendment of ORV Act, 1975 thereof.

The views of law Department was sought for in this matter. Law Dept. have opined that provisions have been made in the Orissa Reservation of Vacancies in Posts & Services (SCs & STs) Act, 1975 to provide for reservation for candidates belonging to SCs & STs in posts and services under the entire state of Orissa. Article 16(1) & (2) of the Constitution of India guarantee equal opportunity in employment and prohibits discrimination on the ground of residence. So the proposal for district-wise reservation as per percentage of ST population in the district is not tenable under law. However, some members expressed concern over the matter and alleged that the problem has become serious as some outsiders manage to obtain residential certificates from the local Tahsildar to apply for a particular district cadre post and thereby obstruct the chances of local candidates, especially tribals from getting the benefit of employment. After deliberation, the Council recommended for making suitable amendment to

the existing rules for production of "Nativity Certificate" instead of Residential Certificate for the purpose of seeking employment against a district cadre post in the scheduled areas. As this will take care of the problem to a large extent, the TAC recommended that Government should take necessary follow up action in this regard.

6.8 Ban on Liquor vending in tribal areas to save Tribals from exploitation by Liquor Vendors.

After thorough discussions on the pros and cons of imposing total prohibition of distillation and sale of country liquor, it was decided that strict vigil be kept to check trading of I.D. liquor in tribal areas and further the opening of liquor shops should be discouraged in these areas.

6.9 Enhancement of Post-matric Scholarship especially for Medical and Engineering colleges for ST & SC students.

The members unanimously recommended for adoption of the revised rate of post-matric scholarship as communicated by Govt. of India in the Ministry of Tribal Affairs vide their letter dated 19.2.2004 with immediate effect. But in view of the resource crunch of the State, they recommended that Govt. of India in the Ministry of Tribal Affairs and Planning Commission should be moved to bear the entire burden of enhanced post-matric scholarship liability instead of the present system of bearing the additional liability with reference to a particular plan period. The Members also stressed that timely payment of pre and post-matric scholarship should be ensured in order to make this scheme meaningful.

6.10 Approval of Draft Annual Report on Administration of Scheduled Areas for 2000-01.

6.10.1 The draft Annual Report on administration of scheduled areas for 2000-01 was discussed and approved.

6.10.2 The Council further desired that the Annual Administration Report for the year 2001-02 should be prepared in all respect and placed before the next meeting of the Council in March, 2005 for approval.

The meeting ended with a vote of thanks to the Chair and Members present.

Sd/-
Commissioner-cum-Secretary