

**ACTION TAKEN MEMORANDUM ON THE RECOMMENDATION CONTAINED IN THE 4TH
ANNUAL REPORT OF THE NATIONAL COMMISSION FOR MINORITIES FOR THE PERIOD
FROM 1996 TO 1997.**

Chapter-13, Para no. B.I (i) Page 69

1. RECOMMENDATION

“The Vardarajan Committee Report on Minorities for the 9th Five Year Plan (chapter 4), the report of the Committee of Members on the Revision of the NCM Act, the Chairman’s letter to the Prime Minister, and the day-to-day experience of the Commission in pursuing its work, all point out to the need of a thorough overhaul of the law governing the Commission’s composition, powers and procedures. The recommendations in this regard are in brief as follows:

The law relating to the Commission, now contained in the National Commission for Minorities Act 1992, should after suitable revision, be incorporated into a law for the Protection of Minorities having a wider scope, to be enacted on the pattern of the Protection of Human Rights Act 1993 (which incorporates the law for the National Human Rights Commission).”

ACTION TAKEN

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 Lok Sabha on 23.12.2004.

Chapter-13, Para no. B.I(ii)

2. RECOMMENDATION

Tenure of the Commission should be raised from the present 3 to 5-6 years, following the system of rotational retirement of Members on the pattern of Rajya Sabha.

ACTION TAKEN

The ground for making this recommendation and since the system of rotational retirement is not followed in any other Commission, it does not appear appropriate to introduce the system of rotational retirement.

Chapter-13, Para no. B.I (iii)

3. RECOMMENDATION

The position of Vice-Chairman should rotate among the Members.

ACTION TAKEN

According to the National Commission (Amendment) Bill 1995, the post of Vice-Chairperson has been specifically created in addition to the post of Chairperson and five other Members. It, therefore, means that when appointments are made to the Commission, a Chairperson, a Vice-Chairperson be made rotational as the person is appointed as the Vice-Chairperson and not as Member.

Chapter-13, Para no. B.I (iv)

4. RECOMMENDATION

The Commission should have a right of representation in Parliament on suitable occasions.

ACTION TAKEN

Since the report of the Commission are placed on the Table of the Houses their views in original form and therefore their concern that Parliament see the views of the NCM verbatim has been met.

Chapter-13, Para no. B.I (v)

5. RECOMMENDATION

Power of inquiry and investigation should be specifically conferred on the Commission.

ACTION TAKEN

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 Lok Sabha on 23.12.2004.

Chapter-13, Para no. B.I (vi)

6. RECOMMENDATION

Regional offices of the Commission must be set up in Mumbai and in other major regions.

ACTION TAKEN

Since the State Government of Maharashtra has set up a State Minorities Commission, there does not appear to be any justification for a regional office at Mumbai. As regards to other regions, it will be necessary to consider specific proposals, in the context of whether a State Minority Commission is functioning and whether there is any need for a regional office.

Chapter-13, Para no. B.I (vii)

7. RECOMMENDATION

The Commission should be given greater autonomy and freedom in its work.

ACTION TAKEN

The Commission enjoys full autonomy in the discharge of its duties.

Chapter-13, Para no. B.I (viii) Page No.70

8. RECOMMENDATION

The Status of the Chairman, Vice-Chairman and Members should not be “personal” to any particular incumbent and should be suitably settled and once for all.

ACTION TAKEN

Any formal amendment in the Table of Precedence can be carried out on the recommendation of the Warrant of Precedence Committee as accepted by the Prime Minister and the President. The present status to the Chairman and Vice-Chairman of the Commission has been granted with the approval of the Prime Minister on personal basis for the duration of the term of their office. It is, therefore, not possible

to accede to formal amendment to the Warrant of Precedence for inclusion of the Chairman and Vice-Chairman of the Commission under Article 7 and 10 of the Table of Precedence respectively.

Chapter-13, Para no. B.I (ix)

9. RECOMMENDATION

The annual budget of the Commission should be suitably increased in stages so as to reach a target of 15 Crores in the 9th Plan.

ACTION TAKEN

The budget of the NCM falls under the Non-Plan and not under the Plan. Under the Non-Plan, funds are provided according to requirement and availability of funds.

Chapter-13, Para no. B.I (x)

10. RECOMMENDATION

All important matters relating to the Minorities in general and to particular Minorities must be referred by the Government, before taking a decision, to the Commission for opinion.

ACTION TAKEN

The Government is already referring all important matters to the National Commission for Minorities.

Chapter-13, Para no. B.I (xi)

11. RECOMMENDATION

The Commission and the NMFDC should be made inter-connected sister institution and the former must be given the position of surveillance over the latter.

ACTION TAKEN

The National Commission for Minorities which is a statutory body, analyses issues relating to the socio-economic and educational developments of minorities, and monitors safeguard provided in the Constitution and in laws enacted by the Parliament and State Legislatures, in addition to looking into specific complaints regarding deprivation of rights and safeguards of minorities. The National Minorities Development & Finance Corporation, on the other hand, is a Public Sector Undertaking providing concessional finance to eligible beneficiaries among the minorities for setting up of self-employment ventures. The status and functions of the two organizations, as may be seen, are distinct and different from each other. All Public Sector Undertakings are under the administrative control of their respective Ministries.

Chapter-13, Para no. B.I (xii)

12. RECOMMENDATION

Local Minorities Commissions should be set up, on statutory basis, in all the States and Union Territories and they should interact with the National Commission.

ACTION TAKEN

The State Governments of Andhra Pradesh, Bihar, Chhattisgarh, Delhi, Jharkhand, Karnataka, Madhya Pradesh, Rajasthan, Uttar Pradesh and West Bengal have set up the Statutory Minorities Commissions. The State Governments of Assam, Maharashtra, Manipur, Tamil Nadu and Uttaranchal have set up Non-

Statutory Commissions. Other State Governments/Union Territories have been requested to take necessary action in the matter. The National Commission for Minorities convenes the Annual Conference of State Minorities Commissions. The Fourth Annual Conference was held on 10th & 11th February 2005.

Chapter-13, Para no. B.I (xiii)

13. RECOMMENDATION

Reports and recommendations of the Commission must be quickly tabled in Parliament as required by the law.

ACTION TAKEN

Noted. All efforts are being made by the Government to lay the Reports as quickly as possible.

Chapter-13, Para no. B.II (i) & (ii)

14. RECOMMENDATION

Parliament should enact a “National Minorities (Protection and Development) Act”, on the pattern of the Protection of Human Rights Act, 1993.

15. RECOMMENDATION

The proposed Act should incorporate a suitably revised version of the National Commission for Minorities Act (on the pattern of the provisions for the National Human Rights Commission incorporated in the Protection of Human Right Act, 1993).

ACTION TAKEN (No. 14 & 15)

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 Lok Sabha on 23.12.2004.

Chapter-13, Para no. B.II (iii)

16. RECOMMENDATION

Prime Minister’s 15-Point Programme of 1983 should be suitably revised and enlarged and incorporated in the form of a binding law into the aforementioned proposed “National Minorities (Protection and Development) Act”.

ACTION TAKEN

The Government will recast 15 Point Programme for the welfare of the minorities with a view to incorporating programme specific interventions.

Chapter-13, Para no. B.II (iv)

17. RECOMMENDATION

Parliament should enact a “National Minorities (Protection and Development) Act”, on the pattern of the protection of Human Rights Act 1993. The proposed law should include also other concrete provisions to implement the basic principles of the U.N. Declaration on the Rights of Minorities promulgated in 1992.

ACTION TAKEN

The UNDP in its 'Human Development Report, 2004' has commended the efforts by stating that the Constitution established India as a secular State recognizing the customary laws, codes and practices of minority religious communities and enabled their cultural integration by making positive interventions.

The Government has further decided to strengthen the National Commission for Minorities by conferring constitutional status to it. Accordingly, the Constitutional (One Hundred and Third Amendment) Bill, 2004 has been introduced in Lok Sabha on 23rd December, 2004. Besides, a Drafting Committee has been appointed to prepare the Model Comprehensive Law to contain Communal Violence in the country and to promote confidence and sense of safety and security in the minds of Minorities.

Chapter-13, Para no. B.II (v)

18. RECOMMENDATION

The NCM and the HRD Ministry Guidelines of 1988-89 relating to recognition and administrative freedom of Minority-managed educational institutions should be replaced with binding legislation spelling out the detailed implications and connotation of the rights as guaranteed by Article 30 of the Constitution.

ACTION TAKEN

The Government of India has recently set up the National Commission for Minorities Educational Institutions under the National Commission for Minorities Educational Institutions Act, 2004. The Commission has been set up to perform the functions of (a) advising the Central Government or any State Government on any question relating to the education of minorities that may be referred to it; and (b) looking into specific complaints regarding deprivation or violation of rights of minorities to establish and administer educational institutions of their choice and any dispute relating affiliation to a Scheduled University and report its findings to the Central Government for its implementation.

Chapter-13, Para no. B.II (vi) Page 70-71

19. RECOMMENDATION

Minority-Concentration Districts (MCDs) in the country should be identified irrespective of the higher ratio of local Minority population and of its economic status; and the list of such MCDs should be notified for a phased implementation of Minority welfare programmes and schemes.

ACTION TAKEN

Revision of the list of Minority Concentration Districts (MCDs) is under consideration of the Government.

Chapter-13, Para no. B.II (vii)

20. RECOMMENDATION

The Union and State Governments should come out with more effective schemes and programmes for grants-in-aid, loans and other facilities to be provided to institutions and individuals belonging to the Minority communities.

ACTION TAKEN

The National Minorities Development & Finance Corporation (NMDFC), which provides concessional loans to Minority Communities, has been strengthened to increase the coverage of beneficiaries. The Authorised Capital has been increased from Rs. 500 crores to Rs. 650 crores. NMDFC has from 2003-04, also launched the educational loan scheme, wherein Rs. 75,000 is provided to minority candidates for pursuing professional and technical courses.

Maulana Azad Education Foundation is taking steps for improving literacy among girls belonging to minority communities and giving them vocational education as well. It is extending financial assistance for construction and expansion of hostels, remedial coaching and vocational training with emphasis on girl students.

Chapter-13, Para no. B.II (viii)

21. RECOMMENDATION

The existing welfare schemes for the Minorities should be administered exclusively by the specialized official and semi-official agencies; they should not be clubbed with the schemes for other weaker sections of the society.

ACTION TAKEN

Schemes having common aims have been merged as per guidelines of the Planning Commission and the Ministry of Finance. This has been done to make optimal utilization of scarce resources and for better implementation. Every effort is being made to ensure that beneficiaries belonging to Minorities get their due benefit from such schemes.

Chapter-13, Para no. B.II (ix)

22. RECOMMENDATION

All the Statutory Recommendations made by the First National Commission for Minorities during 1993-96 should be duly accepted and implemented by the Government.

ACTION TAKEN

Annual Reports for the period 1993-94, 1994-95 and 1995-1996 along with Action Taken Memoranda have already been laid in both the Houses of Parliament.

Chapter-13, Para no. B.II (x)

23. RECOMMENDATION

All the Annual Reports of the Commission not yet tabled before Parliament should be so laid within a short time.

ACTION TAKEN

Noted. All efforts are being made by the Government to lay the Reports as quickly as possible.

Chapter-13, Para no. B.II (xi)

24. RECOMMENDATION

All the recommendations made by the Vardarajan Committee on Minorities for the 9th Five-Year Plan, including those relating to the Union and States budget outlay for the Minorities, must be accepted and effectively implemented.

ACTION TAKEN

In the context of the preparations for 9th Five Year Plan (1997-2002), the Planning Commission had set up various Working Groups including Working Group for the Welfare and Development of Backward Classes and Minorities under the Chairmanship of Secretary, Ministry of Welfare. The Sub-Group was further bifurcated by the Ministry into Sub-Groups -one for the Welfare and Development of Minorities under the Chairmanship of Shri M. Vardarajan, the then Member, National Commission for Minorities. The recommendations made by this Sub-Group were duly considered and incorporated in the Reports of the Working Group and Steering Groups constituted in the context of the preparation of 9th Five Year Plan and relevant recommendations were incorporated in the 9th Plan Document. The Plan Document was ultimately approved by the National Development Council (NDC).

Chapter-13, Para no. B.III (i)

25. RECOMMENDATION

Since the Constitution and the laws of the country, including the Hindu-law enactments of 1955-56, make no difference between the Buddhists and Sikhs on one hand and the Jains on the other hand, benefits accorded to the Buddhists and Sikhs cannot, in principle, be denied to the Jains.

ACTION TAKEN

The Central Government, taking into account the observations of the Hon'ble Supreme Court in the case of T.M.A. Pai Foundation & Others Versus State of Karnataka & Others has decided that the Government of India would adhere to the principles laid down in it taking the State as a Unit for determining the minority status. It will therefore, be for the State Government to decide as to whether the Jain community should be treated as a minority group in their respective States, after taking into account their circumstances/conditions in that State.

Chapter-13, Para no. B.III (ii)

26. RECOMMENDATION

Demands of the Buddhists in respect of the management and administrative control of the Bodh Gaya Temple should be duly accepted.

ACTION TAKEN

As Bodh Gaya Temple is both for the Hindus and the Buddhists and not for the Buddhists alone, there is no violation of the safeguards for the protection of interests of the Buddhists. Further the Bihar Government has informed that the two Writ Petitions No. 871/92 and 65/93 by M.O. Kandaswami Singh, Navayana Buddhists Society, Tamil Nadu and Rev. Nagarjuna Shurai Sasai, Indora Buddha Vihar, Nagpur which were filed in the Supreme Court, relating to the vesting of control and management of Bodh Gaya Temple exclusively in the Buddhists have been withdrawn by the Buddhists.

Chapter-13, Para no. B.III (iii)

27. RECOMMENDATION

Payment of compensation to the victims of Delhi anti-Sikh riots of 1984, in terms of the Delhi High Court decision in this regard, should be made expeditiously and systematically.

ACTION TAKEN

In pursuance of the Judgment of Delhi High Court in the case of Smt. Bhajan Kaur versus Union of India, death compensation at the enhanced rate of Rs. 3,50,000/- has been paid in all cases in Delhi. However, six cases for grant of death compensation are pending for want of confirmation of death/incomplete documents.

Chapter-13, Para no. B.III (iv)

28. RECOMMENDATION

The (Muslim) Wakf Act 1995 should be suitably amended (a) to delete the provision of Section 87, (b) to enlarge the scope of involvement of representative religious, educational and professional bodies in the administration of wakfs, and (c) to amend the composition and streamline the functioning of the Central Wakf Council.

ACTION TAKEN

- (a) Section 87 of the Wakf Act bars the enforcement of legal right on behalf of any Wakf which has not been registered. It is because of this provision that Mutawalis are compelled to apply for registration i.e. for obtaining relief through the Courts. There is no system by which creation of each Wakf is notified to the Government. This may result in large scale non-registration of Wakfs. Consequently, there will be no comprehensive record of either Wakf properties or the encroachments that take place on Wakf land. Hence, it will not be desirable to delete Section 87.
- (b) The Central Wakf Council and State Wakf Boards established under Section 9 and 14 respectively of the Wakf Act, 1995 already provide for wide cross section of representative of religious, legal, educational and professional background and also representatives of Muslim Organisations, Members of Parliament, MLAs, State Wakf, Mutawallis etc.
- (c) The recommendation is a very general one. Section 9 of the Wakf Act, 1995 already provides for setting up a Central Wakf Council giving wide cross section representation to various sections to advise the Government on matters concerning the working of the Boards and the proper administration of Wakfs.

Chapter-13, Para no. B.III (v)

29. RECOMMENDATION

Changes proposed in the Christian personal law should be considered on the basis of consensus in the regard among the various factions and groups of the Christians, which the Commission is trying to evolve.

ACTION TAKEN

The Government of India consults various groups of the Christians before making changes in their Laws and tries to evolve consensus in this regard. Accordingly, the leading Christian Organizations and the members of Parliament were consulted before amending the Indian Divorce Act, 1869 through Indian

Divorce (Amendment) Act, 2001 and the Indian Succession Act, 1925 through Indian Succession (Amendment) Act, 2002.

Chapter-13, Para no. B.V(1) & V(2) Page No.72

30. RECOMMENDATION

It often happens that when a Statutory Recommendation of the Commission is forwarded to the concerned Ministry/Department of the Government, it promptly sends to the Commission a reply virtually “rejecting” the Recommendation for reasons stated in the reply. This is not in accordance with the law.

31. RECOMMENDATION

Section 9(2) of the National Commission for Minorities Act, 1992 requires each Recommendation of the Commission to be laid before each House of Parliament, as per procedure provided for therein. It is recommended that the Government should explain this law and procedure for due compliance to all the Ministries and Departments through suitable means.

ACTION TAKEN ON MEMORANDUM (Nos. 30 & 31):-

At the time of calling of the Action Taken Report from concerned Ministries/Departments, they are requested to send the Action Taken Report with the approval of the Minister-In-Charge. However, all Ministries/Departments have been requested to invariably follow the recommendations of the National Commission for Minorities.