

**ACTION TAKEN MEMORANDUM ON THE RECOMMENDATION CONTAINED IN THE 8TH
ANNUAL REPORT OF THE NATIONAL COMMISSION FOR MINORITIES FOR THE PERIOD
FROM 2000 TO 2001.**

Chapter-15 Para No. 15.1 Page No.97

1. RECOMMENDATION

A Regional office of the Commission should be set up at Mumbai immediately. Though the previous Commission also made this recommendation but in the absence of suitable office accommodation, the regional office could not be set up. Present Commission has reiterated its earlier recommendation for setting up a Regional office at Mumbai immediately.

ACTION TAKEN

The Central Government sanctioned opening of a Regional Office of the National Commission for Minorities in Mumbai vide order dated 12th February, 1996. The National Commission for Minorities was unable to set up the office till July 2003. Thereafter, the matter does not seem to have been pursued as the State Government of Maharashtra set up the State Commission for Minorities.

Chapter-15 Para No. 15.2

2. RECOMMENDATION

The Commission made a recommendation to the major recruiting agencies like UPSC, SSC, and Banking recruitment board that no competitive examination should be fixed on the occasions of festival of any minority community.

ACTION TAKEN

The recommendation has been accepted by major recruiting agencies like Railways and Banking Division of the Ministry of Finance and suitable instructions issued.

Further, Union Public Service Commission does not schedule examination/tests on Gazetted Holidays/Restricted Holidays or on the occasion of a festival of any minority community, which is declared as such in the list of Govt. Holidays issued by the Department of Personnel & Training.

Chapter-15 Para No. 15.3

3. RECOMMENDATION

The Commission recommended the Department of Personnel and Training that Easter holiday, which falls on Sunday should be specified as holiday in official calendar.

ACTION TAKEN

Easter Holiday, which falls on Sunday, has been included in the list of Restricted Holidays to be observed in Administrative offices of the Central Government at Delhi during 2007 onwards. For Central Government offices outside Delhi, Central Government Employees Welfare Coordination Committees are competent to include the occasion in the list of Restricted Holidays.

Chapter-15 Para No. 15.4 Page No. 98

4. RECOMMENDATION

The Commission recommended to the Union Minister of Home Affairs that the problem of Afghan National of Indian origin should be dealt in a most sympathetic manner and if necessary in relaxation of the provision of the Foreigners Act Govt. of India may give amnesty to all of them in so far as Passport and other documents are concerned.

ACTION TAKEN

Year-to-year extension to stay in India has been granted to Afghan nationals. Present extension of stay is up to 30.6.2007.

Chapter-15 Para No. 15.5

5. RECOMMENDATION

The Afghan Hindu, Sikhs welfare society, C-128, Greater Kailash-I, New Delhi may be considered as representative organization of Afghan refugees of Indian Origin and they may be authorized to authenticate the names of all the refugees.

ACTION TAKEN

It has been verified that this organization does not exist at the given address.

Chapter-15 Para No. 15.7

7. RECOMMENDATION

The Commission recommended that the Ministry of Finance should evolve an interest subsidiary scheme for the riot affected Minorities Communities in respect of all the future communal riot on the pattern of the Central Interest Subsidy Scheme (revised for Nov. 1984 riot affected borrowers.)

ACTION TAKEN

The 'Central Interest Subsidy Scheme for November, 1984 Riot Affected Borrowers' was framed as a very special case keeping in view the severity and suffering of the borrowers in a specific situation. The introduction of a general interest subsidy scheme to be extended to all communal riots, which might occur, on the analogy of the scheme is not considered feasible.

Chapter-15 Para No. 15.9 & 15.10

9. RECOMMENDATION

The Central/State Government should initiate immediate action for return of Kashmiri Pandits living in camps at Jammu and other places and for their rehabilitation, Government should create 'Security Zones', in selected places of Kashmir, both in Urban and rural areas.

10. RECOMMEDATION

The general impression amongst the migrants that financial aid given for the purpose is not utilized fully for their benefit needs to be dispelled by ensuring total transparency in utilization of funds and involvement of the camp migrants in the management of these camps.

ACTION TAKEN

As announced by the Prime Minister during his visit to Jammu & Kashmir in November, 2004, an inter-ministerial team was constituted to prepare a plan to rehabilitate Kashmiri migrants. The team recommended various confidence building measures like construction of two-room tenements, creation of job opportunities, health-care and other facilities to improve the living conditions of the migrants in the camps. The recommendations of the inter-ministerial team have been accepted and the State Government and the concerned Ministries/Departments have initiated necessary action. In accordance with the recommendations of inter-ministerial team and subsequent deliberations, the State Government propose to construct 5,242 Two-Room Tenements (TRTs) at an expenditure of Rs. 185.00 crore (approx.) to accommodate migrant families presently living in One-Room Tenements (ORTs) and Government/Semi-Government buildings. The construction work will be carried out in a period of three years.

Further, the State Government have undertaken construction of temporary shelters in the shrines in Mattan and Kheer Bhavani where Kashmiri Migrants, displaced from these places, will be housed by developing two model clusters, until such time they can repair their existing residential houses, 18 flats at Mattan and 100 one-room tenements at Kheer Bhavani, along with the repair/renovation of the shrines have been undertaken. Further, 200 flats are under construction at Sheikhpura in Budgam District.

The State Government has constituted an apex level Committee under the Chairmanship of the State Revenue Relief & Rehabilitation Minister to go into the entire issue and suggest the long term and short-term solutions. As per the recommendations of the Committee, a sub-Committee has been constituted for preparing an action plan for return of the migrants. The action plan has been approved by the State Government. As per the suggestion of the Central Government, the State Government has constituted a Core-Group of Senior Officers under the chairmanship of Principal Secretary and Secretary to Government, Planning & Development Department, to comprehensively address the problems faced by the Kashmiri Pundits who are still living in the Valley as well as all sections of Migrants from the States.

Chapter-15 Para No. 15.11 Page No. 98-99

11. RECOMMENDATION

“The State/Government should prepare a directory of all the immovable properties left by Kashmiri Pundits in the valley and should constitute a supervisory body to look after this property reaches their rightful owners. The Leave salary being paid to Kashmiri Pundits should be gradually discontinued ensuring that they are assigned suitable jobs in the Valley, Jammu or even in the offices of the Central Govt. They should be paid full salary instead of remaining without work and getting leave salary”.

12. RECOMMEDATION

“The State/Central Government should ensure greater involvement of Sikhs and Kashmiri Pundits in Political Institutions. The appropriate representation of Sikhs in the State Employment and services should be ensured over a period of time. The State/Central Govt. should evolve a consistent policy of rehabilitation of the facilities and those who are killed due to Militancy in Kashmir, immediate payment of compensation @ Rs. 2.5 lakhs for those killed and employment to one of the family members of the deceased should be ensured”.

ACTION TAKEN

The recommendations have been forwarded to the State Government concerned for taking necessary action in accordance with the Section 9(3) of NCM Act, 1992.

Chapter-15 Para No. 15.13 Page No. 99

13. RECOMMENDATION

The Sikh Kashmiris recruited in Central forces under the scheme of compassionate appointment should be placed anywhere in India to ensure their emotional integration with the country.

ACTION TAKEN

In the Central Police Forces, all personnel are liable to serve anywhere in India, including the Sikh Kashmiris, if recruited in the Central Police Forces under the scheme of compassionate appointment.

Chapter-15 Para No. 15.19 Page No. 102-103

19. RECOMMENDATION

- i. Taking cognizance of some reports appeared in various news papers and representations received from various organizations regarding harassment to Muslim owners in Delhi by the Sub Division Magistrate doubting their Indian nationality the Commission took up the matter with the Union Ministry of Commerce to repeal the Custodian Enemy Property Act forthwith and all cases pending under it, in Delhi and elsewhere be wound up without taking any further action under its provisions. The Commission thus recommended the following-
- ii. 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 purviews of the Enemy Property Act 1968.
- iii. 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 Act, 1968. No verification needs to be done in such cases by the CEP. Notices issued or the Government should immediately withdraw FIR lodged in such case.
- iv. 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 Government should formulate rules for carrying out the purpose of the Act under Section 23 of the EP Act 1968.
- v. The Administration/CEP should not recover/demand any rent arrear of rent for a Property alleged to be an Enemy Property till such time as it is notified so under Section 12 of the Enemy Property Act, 1968.

ACTION TAKEN

- (i) Repeal of the Enemy Property Act, 1968, may not be possible till the Govt. of India and the Govts of Pakistan and Bangladesh (erstwhile East Pakistan) come to an agreement to return the properties of migrants of each country bilaterally. All enemy properties, wherever located have already been vested in the Custodian of Enemy Property (CEP). Detection of these properties is a continuing process and it would be contrary to the objects of the Act if the identification and take over process is stopped from a fixed date. Such an action can also be considered as discriminatory by treating two enemy properties differently.

- (ii) No Wakf Property has 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.
- (iii) Properties declared as Evacuee properties are not declared as Enemy Properties. Only those properties belonging to or held by or managed on behalf of Pakistani Nationals during the crucial vesting period from 10.09.1965 to 26.09.1977 are vested with the Custodian of Enemy Property for India in terms of Notification No. 12/2/65-E. Pty dated 10.9.1965 and S.O 5511 dated 18.12.1971 issued by the Central Govt. under Defence of India Rules, 1962 and 1971 respectively. All such enemy properties vested in the Custodian continue to remain vested in him in terms of Section 5 and 24 of the Enemy Property Act, 1968 as amended. Accordingly, all such properties situated anywhere in India whether detected during the vesting period i.e.10.9.1965 to 26.9.1977 or any time thereafter continue to remain vested in him till they are divested from him by the Central Property Act, 1968. Hence, there is no question of any Evacuee Property to be declared as Enemy Property.
- (iv) The CEP had issued guidelines for preservation and management of enemy properties under Section 8 of the Act. The guidelines were issued on 17.4.2000. As the guidelines issued by the CEP in this regard take 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.
- (v) The recommendation of the Commission is accepted. Till such time a property is detected as enemy property and a certificate to this effect is issued by the CEP under Section 12, no rent or arrears thereof could be charged.

Chapter-15 Para No. 15.22 Page No.103

22. RECOMMENDATION

Representations were received from various minority communities regarding non-appointment of Government Counsels in different Courts from these communities. The Commission recommended on 27.10.2000 to the Ministry of Law that while appointing Government Counsels, effort should be made to ensure that the Members of the minority communities are adequately represented.

ACTION TAKEN

The Government engages advocates for conducting Central Government cases before different courts. Since May, 2004, a number of advocates belonging to minority communities have been engaged for conducting Central Government cases in different courts.

Chapter-15 Para No. 15.23

23. RECOMMENDATION

The Commission vide letter dated 22.5.2000 recommended to the Ministry of External Affairs to post Muslim Officers and staff in the Haj Cell of the MEA.

ACTION TAKEN

Government is always making efforts to deploy capable and willing officials from the Muslim community in the Haj Cell, subject to availability.

Chapter-15 Para No. 15.24

24. RECOMMENDATION

The Commission vide letter dated 22.5.2000 recommended to the Ministry of Social Justice and Empowerment to post Muslim Officers and staff in the Wakf Division and Minorities Cell of the Ministry.

ACTION TAKEN

With the creation of the Ministry of Minority Affairs the Wakf Division and Minorities Cell of the erstwhile Ministry of SJ&E have become part of the new Ministry. The Ministry has a representative mix of personnel. However it is not considered prudent to limit the exposure to this job to only Muslim officials.

Chapter-15 Para No. 15.26

26. RECOMMENDATION

The 15 additional posts were recommended by the Staff inspection Unit of the Ministry of Finance (Deptt. of Expenditure). These posts should be immediately sanctioned and suitable additional funds be placed at the disposal of the Commission.

ACTION TAKEN

It has been observed that a number of posts are lying vacant in the Commission. The proposal for additional posts would be considered, once vacant posts are filled up.