



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जन जाति, आयोग

National Commission for Scheduled Tribes

(A Constitutional Body set up under Art. 338A of the Constitution of India)

Case File No. KS/1/2018/MCOL1/SEPROM/RU-IV

Dated: 19.09.2018

To,

The Chairman and Managing Director,  
Singareni Collieries Company Ltd.,  
Kothagudem Collieries – 507 101  
Khammam District (Andhra Pradesh).

**Sub:** Proceedings of the Sitting taken by Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 10.09.2018 in the matter of Shri K. Sreenivasulu, SE (E&M), RGOCP-III, RG-II area, Godavarikhani, Peddapalli District, Telangana regarding injustice to ST community officers nativity in promotion in SCCL, Telangana State.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 10.09.2018 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action.

It is requested that an action taken report on the Commission's recommendations in the matter may be sent to the Commission, within one month for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

(Y.K. Bansal)

Research Officer

Copy to:

1. Shri Sreenivasulu,  
Q. No. A-12, Vital Nagar,  
Godavarikhani  
Telangana – 505 214.

2. Dr. Koduri Narayana Rao,  
National President,  
Forum for Social Justice,  
Chamallamudi, (via) Etukur,  
Guntur – 522 017, Amaravati  
(Andhra Pradesh)

✓ copy to: - SSA, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

KS/1/2018/MCOL1/SEPROM/RU-IV

PROCEEDINGS OF SITTING HELD ON 10.09.2018 AT 12.00 NOON CHAIRED BY SHRI NAND KUMAR SAI, HON'BLE CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI K. SREENIVASULU, WORKING AS S.E (E&M) AT RGOCP-III, RG-II AREA, SCCL, PEDDAPALLI DISTRICT, TELANGANA REGARDING DENIAL OF PROMOTION TO THE POST OF DEPUTY GENERAL MANAGER (E&M) (E-7 GRADE).

Date of Sitting: 10.09.2018

List of officers present in sitting is Annexed.

Brief facts of the case


The petitioner Shri K. Sreenivasulu, working as S.E (E&M) at RGOCP-III, RG-II area, SCCL, Peddapalli District, Telangana vide his representation dated 06.06.2018 has submitted grievance/representation before the Commission regarding denial of promotion to the post of Deputy General Manager (E&M) (E-7 grade). He alleged that there were two backlog vacancies in Deputy General Manager (E&M) (E-7 grade) post for ST community in SCCL. But in recent promotion interviews held on 09.05.2018, his junior has been promoted to the said post and he was denied such upgradation. It is learnt that his candidature has not been considered for the said post because he hailed from AP whereas his juniors belongs to Telangana nativity. The SCCL Management is stated that to extend the privilege of Rule of Reservation (ROR) in promotions is applicable to only Telangana SC/ST candidates. Hence, his promotion has been denying in view of his belongingness to Andhra Pradesh nativity in the light of State bifurcation in 2014.

Earlier he was promoted from E-5 grade to E-6 grade through ROR in promotions on 01.01.2015 i.e. only after the state bifurcation by submitting the caste certificate issued by Telangana Government. But surprisingly though he has submitted the caste certificate issued by Telangana Government, this time he has not given promotion stating that he is native of Andhra.

It is pointed out that a provision in AP Reorganization Act, 2014, with regard to Government Companies and Corporations in the erstwhile Government of Andhra Pradesh were included in the IX schedule that Section 68 of the Act mandates as under:

"Section – 68 : Provisions for various companies and corporations:

- 1) The companies and corporations specified in the Ninth Schedule constituted for the existing State of Andhra Pradesh shall, on and from the appointed day, continue to function in those areas in respect of which

  
नन्द कुमार साय/Nand Kumar Sai  
अध्यक्ष/Chairperson  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes

they were functioning immediately before that day, subject to the provisions of this section.

- 2) The assets, rights and liabilities of the companies and corporations referred to in sub section 91 shall be apportioned between the successor States in the manner provided in section 53”.

Further, section 71 of the Act stipulates as under:


Notwithstanding anything in this Part, the Central Government may, for each of the companies specified in the Ninth Scheduled to this Act, issue directions-

- a) regarding the division of the interests and shares of the existing State of Andhra Pradesh in the company between the successor state:
- b) requiring the reconstitution of the Board of Directors of the Company so as to give adequate representation to the successor States”.

In view of the above, it is clear that in absence of any specific modalities fixed by the Government of India regarding implementation of Rules of Reservation in the Public Sector Undertaking, the benefits being implemented to the SCs & STs cannot be taken up by the SCCL and cannot refuse to consider his candidature for promotion. The SCCL is also implementing the rule of reservations in promotions from the year 2004 as per GOMs No. 5 dated 14.02.2003 issued by Govt. of AP. After state Bifurcation also, this GO holds good and all the Govt. institutions/Organizations of Telangana are implementing the same. There is no separate GO or Circular issued by Govt. of Telangana to stop extending benefits of Rules of Reservation in promotions to SC/ST employees of Andhra Native. In absence of any direction from Telangana Govt. SCCL's decision of stoppage of Rules of Reservation benefit in promotions to Andhra Native SC/ST employees is totally unjustified.

2. As per procedure, the Commission took up the matter with the CMD, SCCL vide Commission's notice dated 21.06.2018 for a report. Thereafter, the SCCL vide its letter dated 08.09.2018 has reported that on receipt of the representation from President, TBGKS (Recognized Union in SCCL) to allow Rules of Reservation benefit only to Telangana native SC/ST employees, the matter was referred to Addl. Advocate General, Telangana State. On receipt of legal opinion from the Addl. Advocate General, Rules of Reservation benefits is being extended only those SC/ST employee who hails from Telangana. The other state SC/ST employees are not allowed Rules of Reservation benefits in promotions from DPC 2015-16 onwards i.e. 1<sup>st</sup> October, 2015.

It is further submitted that the candidature of Sri K. Sreenivasulu for promotion from E-6 to E-7 Grade was not considered under Rules of Reservation as per the policy of the company after obtaining legal opinion from the Addl. Advocate General, but not as contended by him in his representation. The petitioner had also filed a Writ Petition No. 21310 of 2018 challenging policy of the Company and the same is pending in the Hon'ble High Court for the State of Telangana and Andhra Pradesh.

  
नन्द कुमार साय/Nand Kumar Sai  
अध्यक्ष/Chairperson  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes

3. The Sitting was attended by the Director (PA&W), SCCL along with request letter of exemption for appearance of CMD, SCCL and senior Officers from SCCL. The petitioner was also present.

4. The case was discussed in detail. The Commission observed that the petitioner Shri Srinivasulu had joined in SCCL as Junior Executive Engineer Trainee (E&M) on 26.02.1998 during the periods of undivided State of Andhra Pradesh. He was Scheduled Tribe native of Andhra Pradesh. His promotion as Deputy Manager (E&M)/E-7 was due in the year 2018 and there were 2 backlog ST vacancies in the cadre. However, being senior most in the ST category, his promotion was denied due to his nativity as ST of Andhra Pradesh and extending the privilege of Rules of Reservation in promotions to only Telangana SC/ST candidates in view of State bifurcation in 2014.

In the instant case, the Commission observed that the petitioner was earlier promoted from E-5 grade to E-6 grade through Rules of Reservation in promotions on 01.01.2015 i.e. only after bifurcation of the State by submission of ST certificate issued by the Telangana Government. But, during the next promotion (E-6), his claim of promotion was denied stating that the petitioner belongs to native of Andhra Pradesh and company's policy of extending benefits of promotion only for native of Telangana SC/ST. The SCCL is also implementing Rules of Reservation on promotion as per G.O.Ms. No. 5 dated 14.02.2003 of erstwhile Govt. of AP and in absence of any direction from Telangana Govt., SCCL's decision to stoppage of Rules of Reservation benefit in promotion to Andhra Pradesh native SC/ST employees is totally unjustified. It is also pointed out that the SCCL is a Central Public Sector Undertaking and is a subsidiary of Coal India Limited under the Administrative Ministry of Coal. The Rules of Reservations are applicable in all Central PSUs as per Govt. of India's Reservation policy. The Rules of Reservation of the State Govt. cannot be forced on the Central PSUs. The Section 68 and 71 of State Re-organization Act, 2014 also provides that only Govt. of India can issue direction regarding division of interest between the existing State of Andhra Pradesh in the company and the successor State of Telangana. Hence, the opinion of the Additional Advocate General, Telangana cannot be treated as Government's Administrative instructions/decisions. The Commission also felt that it is not a case of migration of ST person from Andhra Pradesh to Telangana State. After State re-organization, the SCCL came under the jurisdiction of Telangana State. But the company was not a part of State Government. Since the petitioner was already employed with SCCL before State re-organization and hence his rights of Scheduled Tribes cannot be denied being a native of Andhra Pradesh. The list of Scheduled Tribes was also not modified after bifurcation of the State. However, if the SCCL has any doubt about implementation of Rules of Reservation in appointment and promotions of SC/ST, then the DoPT and Ministry of Home Affairs, who are the competent authority, can be consulted and seek opinion/advice in the matter. In addition, the Hon'ble High Court of Judicature at Hyderabad in its judgment in W.P. Nos. 16330 of 2015, 16504 of 2015 and similar nature of other writ petitions has ruled that Article 16(2) of the Constitution of India forbids a person from being rendered ineligible for or discriminated against in respect of any employment or office under the State inter alia only on the ground of



नन्द कुमार साय/Nand Kumar Sai  
अध्यक्ष/Chairperson

राष्ट्रीय अनुसूचित जनजाति आयोग

National Commission for Scheduled Tribes

place of birth or residence or any of them subject, however to the exception envisaged under clause (3) of Article 16 which enables the Parliament to make any law prescribing in regard to a class or classes of employment or appointment to an office under the Government, or any local or other authority within a State or Union Territory, any requirement as to residence within that State or Union Territory, prior to such employment or appointment.

5. In the light of the above observation, the Commission recommends that the CMD, SCCL should review the case and consider promotion of the petitioner Shri Srinivasulu as DGM – E-6 being senior most and eligible ST candidate against available backlog ST vacancies and as per Government of India's reservation policy.

6. An action taken report in the case should be submitted within 30 days.

\*\*\*\*\*

27.9.18

नन्द कुमार साय/Nand Kumar Sai  
अध्यक्ष/Chairperson  
राष्ट्रीय आरक्षण आयोग  
National Commission for Scheduled Tribes  
भारत सरकार/Ministry of Tribal Affairs  
नई दिल्ली/New Delhi

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**Annexure**

(File No. GR/2/2018/MCOL1/SEOTH/RU-IV)

**List of participants**

**NCST**

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Miss Maya Chintamn Ivnate, Hon'ble Member
3. Shri S.K. Ratho, Joint Secretary
4. Shri P.T. Jameskutty, Hon'ble Member
5. Shri Y.K. Bansal, Research Officer
6. Shri H.R. Meena, Sr. Investigator

**Officers of Singreni Collieries Co. Ltd. (SCCL)**

1. Shri Chandrasekhar, Director (PA&W) (FAC)
2. Shri Ananda Rao, General Manager (Per)
3. Shri K. Basavaiah, General Manager (P)

**Petitioners**

1. Shri Srinivasulu
2. Shri G. Rajesh
3. Dr. Koduri Narayana Rao
4. Shri G. Ramesh