



स्पीड पोस्ट
SPEED POST

Government of India
National Commission for Scheduled Tribes
(A Constitutional Commission set up under Art. 338A
of the Constitution of India)

File No. CM/3/2016/MFIN9/SEOTH/RU-IV

31.10.2016

To,

The Chairperson,
State Bank of India,
State Bank Bhawan,
Madame Cama Road,
Mumbai - 400021
(Maharashtra)

Sub: Representation of Smt. Caroline Minj, C-716, Delhi Govt. Flats, Timarpur regarding harassment, discrimination and victimizing Scheduled Tribe employee of State Bank of India.

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held in the NCST on 30.08.2016 on the above mentioned subject for necessary action. Action taken report may be intimated to the Commission within 15 days on receipt of this letter.

Yours faithfully,

D. S. Kumbhare
31/10/16
(D.S. Kumbhare)
Under Secretary
Ph. No. 24657271

Copy for information to:-

The General Manager,
State Bank of India,
Human Resources Deptt.,
13th Floor, Local Head Office,
11, Sansad Marg,
New Delhi.

Copy to:-

Ms. Caroline Minj,
C-716, Delhi Govt. Flats,
Timarpur,
Delhi - 110 054.

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NATIONAL COMMISSION FOR SCHEDULED TRIBES

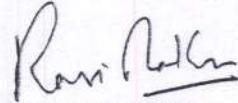
CM/3/2016/MFIN8/SEOTH/RU-IV

Proceedings of hearing held on 30.08.2016 at 05.00 PM in the case of Smt. Caroline Minj, Ex-Assistant Manager, State Bank of India in the National Commission for STs

List of Participants are as at Annexure-1.

Back ground

1. Smt. Caroline Minj, Ex-Assistant Manager of State Bank of India (SBI) submitted a complaint / petition dated 07.05.2016 to the Commission regarding harassment, discrimination and victimizing by the authorities of the SBI while working at State Bank of India, Vasant Vihar Branch, New Delhi during 24.04.1997 to 15.02.1999 on the following three issues and requested to provide justice in this regard.
 - (i) Non releasing of increment in her salaries.
 - (ii) Debit of amount Rs. 10,000/- by the bank from her account without bringing to her knowledge and authority after her transfer from the branch.
 - (iii) False and fabricated allegations established in the Charge Sheet which were substantiated with illegal and irrelevant documentary evidences and her service has been dismissed. Her appeal and review petition were also rejected.
2. To know the facts, the Commission served a notice to SBI on 10.05.2016 to furnish the comments on the above issues. First sitting in this case were held on 28.07.2016. The bank vide letter No. HR:SW:RK:1610 dated 27.07.2016 furnished the comments which only speaks about the issues raised at point (iii) and there were no comments on point (i) and (ii) and was totally silent. On discussion, the Commission desired to know about the proof of notice served by the Disciplinary Authority for explanation sought from the petitioner and the rules as well as procedures followed by the Bank in the case. The

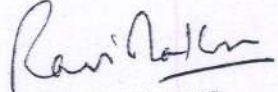

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representatives of the bank failed to produce the documents of explanation sought from the petitioner in respect of charges framed on the petitioner as well as could not give any satisfactory reply to any of the clarifications sought on the above issues. Representatives from SBI came unprepared and without any original documents, which has been viewed very serious by the Commission. As such, at the same time next date for sitting was fixed for 30.08.2016 which will be attended by the Chairperson, State Bank of India with the advice to the representatives of SBI to come prepared and with original documents with comments as listed in the sitting notice dated 24.08.2016. The Chairman, State Bank of India vide letter Ref. No. 4 Bhadrapada 1938 (S) CDO/PM/DK/15/1017 dated 26th August 2016 requested for her exemption due to pre scheduled Board Meeting of the Bank and nominated General Manager posted at Local Head Office, New Delhi to attend the sitting / discussion. The representatives of the bank in reference to this Commission notice dated 24.08.2016 appeared and only furnished the comments through their two letters vide No. VIGL/VC/1084 dated 30.08.2016 and VIGL/VC/1085 dated 30.08.2016 and failed to furnish the requisite documents. During discussion the representatives of the bank only focused and argued with their conclusion at point (iii) and never focused on point (i) and (ii). After sitting, the petitioner submitted her grievances vide letter dated 02.09.2016 on these issues and discussion followed by another letter dated 09.09.2016.

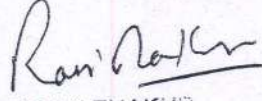
Findings

1. **As regards non release of increments in the salaries :-**
 - a. The petitioner has complained that, without giving any reasons, increments in the salaries were not released to her during the period of her posting at SBI, Vasant Vihar Branch, New Delhi in the year 1997 to 1999, which caused her severe financial loss, which is a serious misconduct on the part of SBI to


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discriminate and harass her. The payment of arrears for annual increments were also due since 1995.

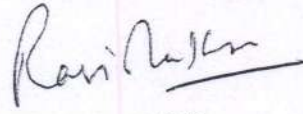
- b. SBI vide letter No. GM(NW-I)/RTI/731 dated 20.04.2009 replied to the petitioner's RTI application dated 20.03.2009 that no increments were released in her favour during April, 1997 to March, 2004. The petitioner sought reasons through RTI application dated 06.05.2009, as to why the increment were not released in her favour. SBI replied through their letter No. GM(NW-I)/RTI/2092 dated 28.05.2009 that, non-release of increments in your favour, please refer to our letter No. VIGL/MG/3133 dated 20.03.2004 which had already been delivered to you.
- c. On scrutiny, it was found that, letter dated 20.03.2004 is a dismissal order which has no relevance with the release of increments in the salaries of the petitioner. It has also been noticed that, SBI has confirmed that they have never called explanation from the petitioner during the period of her posting at SBI, Vasant Vihar Branch, New Delhi for the alleged charges for which the SBI is referring to their order dated 20.03.2004 regarding release of increments in the salaries.
- d. As such, it is evident that, it is a pre-planned conspiracy of SBI to involve the petitioner in the allegations to victimize her, for which she was not liable at that juncture at the time of releasing increments and the increments were not released in the salaries of the petitioner to make her deeply suffer with mental torture, harassment, discrimination and atrocities by all means being a tribal lady officer. Moreover, SBI has intentionally and purposely blamed and misled the petitioner by giving such grave cryptic information to defame her, which the Commission has viewed it very serious.
2. As regard debit of amount Rs. 10,000/- by the bank from the petitioner's account without bringing to her knowledge and authority after her transfer from the branch :-


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- a. The bank has contended that, an amount of Rs. 10,000/- was taken by the petitioner as advance from the bank for the purpose of conducting PO test held on 19.07.1998 and as per Bank's policy the advances / expenditures to be reimbursed by the bills. As the petitioner could not submit the bills on time, the amount was recovered from her account on 19.08.1999.
- b. On scrutiny, it is noticed that, there is a gap of more than one year on taking advance and recovery of amount. The petitioner was in SBI, Vasant Vihar branch upto 15.02.1999 i.e. for more than six months after taking advance and the amount was recovered after seven months on her transfer and suspension. It is agreed that, advances are to be reimbursed by the bills. As such, there was ample time to show cause the petitioner and without notice or authority trespassing into petitioner's account is not appreciable. Moreover, bank did not inform the petitioner after debiting the amount by trespassing into the account. Besides, SBI vide letter No. GM(NW-I)/RTI/12063 dated 05.03.2010 misled the petitioner by furnishing defective information from the rule (Point No. 23) from the "Bank Book of Instruction" which speaks about the "Advance against travelling expenses and submission of bills" and not for the advance for which the petitioner had taken for the purpose. Thus, Commission has viewed it very serious on the action of SBI.
3. **As regard false and fabricated allegations established in the Charge Sheet which were substantiated with illegal and irrelevant documentary evidences and petitioner's service has been dismissed. Her appeal and review petition were also rejected.**

On scrutiny of records, it was found that;

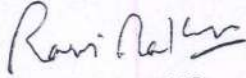
- a. Petitioner's grievance is regarding allegations framed by SBI for the irregularities and action taken on it against the petitioner while posted at SBI, Vasant Vihar Branch, New Delhi are false, fabricated and illegal with harassment, discrimination and victimization.


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- b. The bank has confirmed that, no explanation was called by the bank during the posting of the petitioner at Vasant Vihar Branch for the alleged charges. The Branch Manager, SBI, Vasant Vihar Branch noticed the transactions of irregularities in the month of February, 1999.
- c. Before serving charge sheet; the Deputy General Manager, Disciplinary Authority suspended the petitioner vide letter No. DZO:RI:P&C:84 dated 07.05.1999 after her transfer from the branch on 16.02.1999. After lapse of one year of her suspension, the Assistant General Manager framed the charges vide letter No. DZO/RIII/FR/2486 dated 15.07.2000 and served it to respond. The petitioner has challenged the charges by stating that Disciplinary Authority has not issued any show cause notice prior to serving the charge sheet and referred the rules wherein different categories of officers of SBI have been designated as Disciplinary Authority in terms of Rule 3 (1) (h) of SBI Officers' Service Rules for deciding disciplinary cases of various grades of officers. In her case the Deputy General Manager (DGM) is the Disciplinary Authority, petitioner being in the rank of JMGS-I. The representatives of SBI argued with the letter dated 15.07.2000, but failed to prove that Assistant General Manager is the Disciplinary Authority. Moreover, SBI has referred their comments to letter dated 13.03.2001 on the subject, but the letter speaks about the charge sheet. Besides, Disciplinary Authority never referred about the letter dated 15.07.2000 in the charge sheet. As such, it is evident that Disciplinary Authority has not issued any show cause notice prior to serving the charge sheet. Thus Commission has viewed this lapse as very serious.
- d. The allegations framed against the petitioner in the charge sheet dated 29.08.2002 with amendment dated 07.07.2003 are for the period from 01.07.1997 to 10.02.1999 i.e. for more than one and a half year's period when the petitioner was posted at SBI, Vasant Vihar branch from 24.04.1997 to 15.02.1999. To substantiate the charges and further action SBI provided, examined and considered 43 listed prosecution documents marked as PEX-1 to PEX-43 and presented five witnesses out of seven listed witnesses and

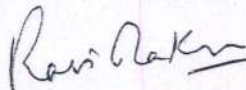
conducted the departmental inquiry. After departmental inquiry the Inquiring Authority, Presenting Officer and Petitioner submitted their reports based on those prosecution documents and witnesses. Thereafter petitioner was imposed penalty of "Dismissal from Service" in terms of Rule 67 (j) of State Bank of India Officers Service Rules vide order dated 20.03.2004. Her appeal and review petition were also rejected by the bank vide order dated 03.02.2005 and 21.12.2009 respectively.

- e. The charges framed in the charge sheet alleging irregularities committed by the petitioner by manipulating online debit entries in various accounts are of;
- (i) National and Local Clearing Account and various other accounts,
 - (ii) In-operative Accounts with other accounts,
 - (iii) Unauthorized transactions of amounts involving petitioner account, T C Bharti's account and G Kujur's account,
 - (iv) Credits and withdrawals to and from petitioner's account alleging those withdrawals are from unauthorized credits which had been made by the petitioner from various unauthorized sources,
 - (v) Unauthorized transaction of Banker Cheque amount in various accounts,
 - (vi) Involvement of petitioner's account, T C Bharti's account and G Kujur's account with In-operative account, Raju Saini's account and National & Local Clearing account in the transactions and;
 - (vii) Possession of cheque of Sh. D N Sharma, Project Officer and credited the amount in her account.
- f. The bank has exonerated the petitioner from the allegation for possession of cheque of Sh. D N Sharma, Project Officer mentioned at point (vii).
- g. The bank has denied that action was illegal, irrelevant, false or based on fabricated evidences with the remarks that strict rules of evidence stipulated in the Evidence Act are not applicable, unless specifically indicated in the relevant rules. Also contended that disciplinary proceedings conducted fairly as per State Bank of India Officers' Service Rules, followed by principle of natural


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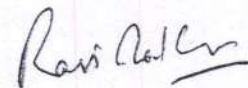
justice. Moreover, the order of dismissal passed by the Disciplinary Authority is based on the evidence adduced during enquiry. The rejection of appeal and review petition is a matter of record.

- h. No documents are there for evidence as per Bankers' Books Evidence Act, 1891 to substantiate the allegations charged in the Charge Sheet as the Act is throughout applicable and binding in the disciplinary proceedings, thus SBI has violated the relevant Act and also failed to discharge their duties in accordance to State Bank of India Officers Services Rules, 1992. The document for evidence of Account No. 21554 of dated 20.11.1999 is not of the alleged period and alleged account, also nowhere in the charge sheet for Account No. 13112 is alleged for which the document of said account has been considered for evidence. Thus, both the documents are irrelevant documents. The Commission has viewed this action as very serious for not following the procedure and considering irrelevant documents for evidence.
- i. SBI has deliberately and knowingly alleged and substantiated the withdrawal of petitioner's seven months' salary paid by SBI affecting it from her first salary of the branch since joining the Vasant Vihar branch with illegal evidences and false statement and dismiss the service to ruin the family and the bread which the petitioner earned; with harassment and mental torture. The salary amount paid and withdrawal have been confirmed by SBI vide letter No. GM(NW-I)/RTI/731 dated 20.04.2009 and No. GM(NW-I)/RTI/6332 dated 17.09.2009. The Commission has viewed this heinous crime and action very serious.
- j. SBI's own witness has deposed during Departmental Inquiry that, petitioner's ID and password were used by others during her posting and after her transfer from the Vasant Vihar branch. The whole incident of allegations framed in the Charge Sheet are of online transactions, thus deposition of Bank's witness is very crucial and vital for the petitioner, who approached with her requisition dated 30.08.2003 and also requested during Departmental Inquiry held on 15.10.2003 for computer related relevant records after her transfer from the


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branch for defence, but the bank did not provide any of the records and only gave two letters dated 01.10.2003 and 14.10.2003.

- k. The letters dated 01.10.2003 and 14.10.2003 speaks that, *"the Easidata reports from 16.02.1999 to the date of deletion of ID of Ms. Caroline Minj are not traceable at the branch. These reports cannot be extracted from the system confirmed by Mr. Chiter Singh, Project Officer as the Easidata Reports are overwritten each day at the time of EOD operation. The facts authenticated by the Assistant General Manager (Computers & Communications) by reflecting the opinion of the Project Officer that no data is available for 1999 for the spool reports in SBITRV Directory thus no reports for the past period can be retrieved from the system and branch had to trace out the hard copy of the reports"*.
- l. Again on the request of petitioner, the Inquiring Authority directed the Presenting Officer and the petitioner to locate those documents at the branch. The branch did not show the relevant records, thus petitioner reported the matter to the Inquiring authority vide letter dated 27.10.2003. Instead of cooperating with the petitioner, the Inquiring Authority vide letter dated 28.10.2003 enclosed the certificate dated 23.10.2003 of Vasant Vihar Branch for *non traceable* of records and remarked that, *"Your claim of not showing branch records to you is not tenable as the branch is not supposed to show you their internal records"*.
- m. There is clear instructions for Inquiring Authority in the bank's book for Discipline & Disciplinary Proceedings that, *"Inquiring Authority should be impartial & unbiased and ensure that the charge sheeted employee does get proper hearing with lawful action and the principle of natural justice. Also, arrange for production of documents and ensure the facility is given to inspect the documents listed in the charge as required by the charged employee as well as in the process cannot refuse oral or documentary evidence relevant to*

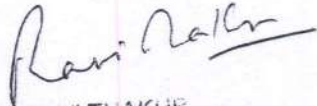


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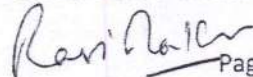
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the case which the charged employee wants to lead in defence". As such, the Inquiring Authority has wilfully done injustice with the petitioner.

- n. It is also evident from SBI's report that, *"Easidata Reports are overwritten each day at the time of EOD operation and no data is available for 1999 for the spool report in SBITRV Directory thus no reports for the past period can be retrieved from the system".* As such, the Easidata reports by which the allegations substantiated are the illegal reports are of later dates and not of the original dates. The Commission has viewed it very serious of this action.
- o. Without providing those crucial and vital documents to the petitioner for defence on genuine demand and without making any efforts by the Inquiring Authority who is liable to trace those various number of documents after her transfer from the branch and concluded the Inquiry by giving negative remarks clearly shows that inquiry was not fairly dealt with by concealing those vital records. The Commission has viewed it very serious for this action.
- p. SBI has alleged the petitioner for refusing to cross examine Sh. Kujur, whereas the records speaks that, petitioner never refused to cross examine Sh. Kujur. The Commission has viewed it very serious for this action.
- q. The complainant Smt. Varsha UKE Nagpal, Chief Manager of the branch has confirmed by her deposition for National & Local Clearing Account and In-operative Account that, the branch is fully computerised branch and to operate those accounts prior permission is necessary from authorised SBI officer and she (Chief Manager) was one of the authorised person. Moreover, transaction is only possible after authorization from the authorised person and according to rule the transaction cannot be possible. The allegations for both the accounts collectively are almost for one year period i.e. National & Local Clearing Account from 06.12.1997 to 08.10.1998 and In-operative Account from 07.04.1998 to 31.10.1998.


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- r. Thus, it is evident that all the alleged transactions were in the knowledge of those authorised bank officers / In-charge of those accounts and Branch Manager / Chief Manager of the branch. It is not acceptable that Branch Manager noticed in the month of February, 1999, since all the transactions are almost for one year period and were made online under the full knowledge of the Branch Manager / Chief Manager and by those authorised bank officers. The petitioner was working as Cash Officer in the branch from 06.12.1997 to 08.10.1998 and interference of the petitioner in those accounts is not acceptable.
- s. SBI has accused the petitioner for transaction of Rs. 7000/- with illegal documents of evidence and without placing the documents of National & Local Clearing Account and G Kujur's Account dated 27.11.1998 in disciplinary proceedings with the remarks that, "*somebody (Not the petitioner) fraudulently debited the National & Local Clearing Account and credited his (G Kujur's) Account on 14.03.1998, which on 27.11.1998 got reversed by the petitioner*". As such, it is clear that somebody was there in the Vasant Vihar Branch to implicate and malign the petitioner cautiously for this crook consequence. The Commission has viewed it very serious for the action.
- t. SBI has accused the petitioner with illegal documents of evidence and without placing the documents of alleged Saving Bank In-operative Account in the disciplinary proceedings which confirms that transactions are from those In-operative Accounts. The Commission has viewed it very serious for the action.
- u. SBI has accused the petitioner without evidence in the disciplinary action for Rs. 1500/- of 05.06.1998, even the Inquiring Authority set aside in his findings due to lack of evidence. The Commission has viewed it very serious for the action.
- v. SBI has accused the petitioner with illegal evidence for transaction of Rs. 50,000/- of 23.09.1998 and Rs. 5,000/- of 30.09.1998 from Current

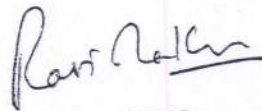


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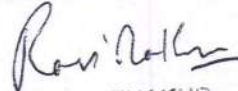
Account No. 94093 to Saving Bank Account No. 94124 which are not visible in the illegal statement of Saving Bank Account No. 94124. The Commission has viewed it very serious for the action.

- w. SBI has accused the petitioner for withdrawal of not visible amount of Rs. 15,000/- of 03.03.1998 in the illegal statement of Saving Bank Account No. 94124. The Commission has viewed it very serious for the action.
- x. SBI has accused the petitioner with illegal and irrelevant Easidata Reports of Account No. 13112 as nowhere in the charge sheet for Account No. 13112 has been alleged and without placing the documents for evidence for alleged Saving Bank Account No. 13122 of Sh. Raju Saini in the disciplinary action for transaction of Banker Cheque. The Commission has viewed this extreme action very serious.
- y. SBI has accused the petitioner on the basis of illegal Easidata Reports by disclosing and confirming the use of petitioner's password by the Inquiring Authority and Presenting Officer in their reports and findings which is not visible in the illegal Easidata Reports. The Chief Manager in her deposition has confirmed that, password is given to all the officers to operate the computers with the clarification that, password is secret but ID is not secret. Thus, it is evident from the facts of the reports and finding of the Inquiring Authority and Presenting Officer that secret of the petitioner's password was hacked by someone and misused in various accounts to implicate the petitioner. The deposition of Chief Manager and bank's witness confirm the facts. Also, non-furnishing of computer related relevant records to the petitioner for defence after her transfer from the branch on her genuine demand and giving negative remarks by the Inquiring Authority for not providing the requisite documents attract the root of the facts. The Commission has viewed it very serious for the action.



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- z. SBI has substantiated the allegations on the basis of various IDs mentioned in the illegal Easidata reports and held the petitioner responsible, whereas the petitioner's ID was CRM as confirmed by the bank vide letter No. GM(NW-I)/RTI/12064 dated 05.03.2010. The Commission has viewed it very serious for the action.
- aa. There is also various contradictory action in the decision, which the Commission has viewed it very serious.
- bb. The petitioner's submission for daily checking and cross checking at various levels are done as per banking norms is mandatory with all the relevant vouchers, documents and records by the responsible In-charge of the alleged accounts under the supervision of the Branch Manager / Chief Manager before closing the branch at the end of the day cannot be denied.
- cc. SBI has failed to furnish the requisite documents by mentioning merely "not available" vide letter dated 30.08.2016 and did not furnish any certificate to this effect from the branch.
- dd. The dismissal order as well as rejections of appeal and review petition are unconstitutional. The Commission has viewed it very serious for the action.
- ee. The petitioner vide complaint dated 03.04.2010 addressed to the Chairman, State Bank of India through proper channel regarding irregularities in the decision for necessary action, but the authorities of the bank did not forward the complaint and merely informed the petitioner vide letter dated 19.07.2010 that, *"your complaint was not put-up to the chairman as you have availed all the opportunities available under State Bank of India Officers Service Rules"*. The Commission has viewed it very serious for the action.
- ff. The allegations framed in the charge sheet and in the FIR are different from each other. The Bank has lodged FIR separately against the petitioner under


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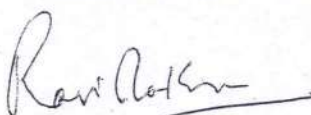
section 409 and 420 of the IPC. The Hon'ble High Court of Delhi in the matter of R P Gulati – Petitioner Vs State and anr – Respondent in the FIR under section 406, 408, 409, 420, 468, 471, 477 of the IPC which is also the case of embezzlement the money of Punjab National Bank, wherein Hon'ble High Court has relied upon the decision of Hon'ble Supreme Court in the matter of B S Joshi and Ors Vs. State of Haryana II (2003) SLT 689 wherein it was held for the purpose of securing the end of justice and in the matter of Central Bureau of Investigation Vs Duncans Agro Industries Ltd. (1996) 5 SCC 591 which was also a case of cheating and embezzlement and forging the documents. The Hon'ble Supreme Court held that such cases are basically a matter of civil dispute, since the complainant bank has already recovered the alleged amount from the petitioner. Similarly, in the instant case the complainant bank has already recovered the alleged amount from the petitioner, hence the matter is a civil dispute.

SUMMARY

The petitioner was deliberately harassed, discriminated and victimized by SBI by all unlawful means while posted at State Bank of India, Vasant Vihar Branch, New Delhi on all the above three issues.

DECISION

The Commission advises SBI to reinstate the petitioner from the date of suspension and pay the salary and allowances with all the consequential benefits and release all the pending increments with interest applicable for Saving Bank Account. Also strict disciplinary action under Rule 66 of State Bank of India Officers Rules, 1992 be taken against all the authorities involved in the above three issues and submit the compliance report within 15 days on receipt of this decision.


रवि ठाकुर/RAVI THAKUR
उपाध्यक्ष/Vice Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

LIST OF PARTICIPANTS

NCST

1. Shri Ravi Thakur, Hon'ble Vice Chairperson (In Chair)
2. Shri P V Mohandas, PS to VC
3. Smt K D Bhansor, Director
4. Shri R S Misra, Investigator
5. Ms N Singsit, Assistant SO

State Bank of India (Respondent)

1. Shri B Sankar, GM, SBI, LHO, Delhi.
2. Shri K Somarajan, DGM (Vig.), SBI, LHO, Delhi.
3. Shri S C Jatav, DGM, SBI, LHO, Delhi.
4. Ms Nirmala Ukrani, AGM, Delhi.
5. Shri Vipin Chopra, AGM(Vig.), Delhi.

Petitioner

Smt Caroline Minj