

Dr. H.T. Sangliana
Vice – Chairperson

DO.NO.05/VC/HTS/112/NCM-2010
NATIONAL COMMISSION FOR MINORITIES
Government of India
Lok Nayak Bhawan, 5th Floor
Khan Market, New Delhi-110 003

Dear Shri Patnaikji,

Sub: Visit to Orissa by the Hon'ble Vice Chairperson, Dr. H.T. Sanglian from 13th -16th September, 2010

This is to express sincere appreciation of the National Commission for Minorities for protocol arrangement, meetings and action taken report presented during the visit to Orissa by the Hon'ble Vice Chairperson, Dr. H.T. Sangliana. The efforts made by the Orissa government for rehabilitation of the victims of violence in 2007-08 are appreciated. However, further action is required on the part of the State government on the following points:

Police cases:

1. As per the records of the Christian leaders more than 3500 written complaints were submitted at the police stations related to all kinds of atrocities allegedly committed against members of the minority Christian community in Kandhamal and adjoining districts including assault, rapes, murder, destruction and burning of Churches, residential houses, shops, offices, schools, hostels and looting of properties, but only 828 cases were registered. This issue of failure to register cognizable complaints at the police stations is a serious matter, it calls for thorough probe and remedial action. The whereabouts of the un-registered complaints may be ascertained and cases registered afresh.
2. As per the statistics supplied by the District Administration of Kandhamal, 707 charge sheets have been submitted to the Fast Tract Courts at Kandhamal of which 42+84=126 cases have been tried and 860 accused acquitted and 185 convicted. It was also reported that at present, as on 15.9.2010, 295 cases are pending trial and 121 cases under investigation. Senior level supervision appears to be wanting as even after 2 years from the date of registration of the FIRs, 121 cases are still under investigation. This calls for personal attention of the DG&IGP.
3. As per the statistics supplied by the District Administration at Phulbani on 15.9.2010, out of 5485 whose names appeared in the FIRs as accused, only 916 have been arrested and 4569 are yet to be arrested. It means that as many as 4569 accused persons are roaming around freely intimidating witnesses resulting in large scale acquittal. This is a

serious matter calling for drastic action on the part of the government. Steps taken in this regard may be intimated in the next ATR.

4. It was bitterly complained by the Christian minority leaders that witnesses have been and are being intimidated by the accused openly and even threatened them for their lives, because of which most of the witnesses turned hostile leading to large scale acquittal. It is obvious that witnesses need protection and refreshment of their memories every time they were brought to the courts for deposition. It is recommended that senior officers from Police and Directorate of Prosecution join hands and go extra miles to stop large scale acquittal.
5. The number of cases pending trial in the Fast Track Courts is reported to be 295 as on 15.9.2010. Effective prosecution is required.
6. In deserving cases appeal should be preferred at the higher courts without losing time. The number of cases taken up in appeal may be intimated to the NCM in the next ATR.
7. To ensure proper framing of charge sheets so as to enable effective prosecution in the courts special steps need to be taken by police and prosecutors. Defective police investigation, improper framing of charge sheets, weak prosecution, intimidation of witnesses, etc. have given an impression that there has been half hearted approach as hundreds of accused are freely roaming without any fear of authorities and many cases have ended in acquittal giving further impression that the Fast Tract Courts are disposing the cases in a hurry to keep up its name as ifi
8. It is not known if the trial courts have issued at least some strictures either against police or prosecution agency which is desirable for improving conviction rate and for maintaining communal and ethnic harmony in an around Kandhamal.
9. The State government must provide protection to victims and witnesses before, during and after the trials according to the guidelines provided in the recent judgment of the Delhi High Court.
10. Threatening of prosecution witnesses at village level and in the court premises are reportedly very high. Needful should be done.

Rehabilitation:

1. The efforts made by the govt. of Orissa to resettle victims of 2007-8 communal cum ethnic violence were visible in the form of providing houses.
2. However, due to lack of sufficient funds, till date, 70% of houses are yet to be completed; most of them have come up to the lintel level only.

3. The building walls both inside and outside are yet to be plastered.
4. Window and door frames are yet to be provided.
5. The CGI sheets in some cases are yet to be procured for which money is not available with the victims any more.
6. In cases where the CGI sheets have been procured quality was found to be of the lowest kind which has no strength and will not be durable.
7. The quantity of the CGI sheets was also found to be insufficient for required overlapping at the joints to prevent seepage of rain waters. In other words the houses will not be fit for occupation in many seasons.
8. Speed and quality of the construction call for immediate intervention of senior level officials and civil society people as poor victims are still homeless even after two years from the time the riots took place. This does not speak well of the governments seriousness at all.
9. Building materials were procured by the violence victims themselves out of Rs.50,000/- for fully damaged and Rs.20,000/- for partially damaged houses granted to them. As the amount given was much less than required they were compelled to go for cheapest materials thereby compromising with quality against their own wish.
10. It was seen that the victims spent from the funds they received for transportation of building materials which had eaten up a good chunk of the funds sanctioned to them. The half finished houses are still in need of items like wooden doors/windows with iron grill for safety.
11. They are also in need of sand and cement for plastering the walls and the floors for which they have no money left. A special task force is immediately required to take up the remaining works at emergency scale so that the victims are liberated from the stuffy and improperly pitched tented accommodation where they have been staying for more than 2 years without proper hygiene health care.

**The assistance of the Archbishop of Cuttack-Bhubaneswar may be sought for as he has expressed his willingness to send volunteers to do the remaining masonry and carpentry works.

12. In all the rehabilitation camps internal road, overhead water tank, latrine to each of the houses, street light, kitchen garden and health care are needed immediately.
13. The District Collector was advised to hold monthly works progress review meeting to ensure speedy and quality progress until the last house was completed and handed over to the victims.

14. The houses constructed by NGOs and civil societies were found to be far better than the ones constructed and being constructed under the state government's sponsored program.
15. The livelihood support system which are at the proposal stage or at the implementation stage need be expedited on a war footing.
16. The displaced persons should be provided Job Cards and given vocational training and engaged in NERGES.
17. **Legal ownership of the Lands and Houses where the victims of violence have been and are being resettled may be given on long/permanent lease basis in order to give them permanent fool proof Legal and Security cover.**
18. Discrimination against Christians is reported to be practiced by some of the Tribes which they termed as "Christian Identity Crises" in Kandhamal district and other places. This may be verified and remedial action taken immediately.
19. The demand of Christians for enactment of "Prevention of Atrocities Against Christian Act" may be examined including banning of "reconversion" by intimidation, etc. in the Orissa State Freedom of Religion Act.
20. Recently a Church at Tiangia village was reported to have been demolished. This is another serious matter calling for immediate restoration of the church building as Christians have no other place of Worship at the place. The government may take immediate action and bind the culprits as long as possible under Section 107 Cr.P.C., etc or take suomoto action against the culprits under the IPC in the interest of maintaining communal harmony.
21. Considerable number of young men had reportedly been compelled by their pathetic condition to go to other states for jobs and a good number of girls too have reportedly left for other states where some of them are reported to have been victims of sexual abuse. Orissa government may give financial grants to enable the women and girls to take up income generating activities to support their families so that they are not forced to migrate to other states where they can end up badly bringing bad name to the state of Orissa.
22. There is clear need to sanction forest land to the affected families for agricultural and horticultural activities. After all man is more important than forest and the later must support the earlier to live on.
23. As the rehabilitation amounts are very meager and not in tune with the reality of the ground situation the government should compensate for the household valuables which were either looted or burned. It is not at all fair not to give compensation on the ground that "reality assessment will not be possible". At least an assessment close to reality will be good enough for compensating the victims! It was also reported that victim house

owners were not present when visitations were made to assess the fully and partially damaged houses. This is not fair to say the least. It is imperative to make re-assessment by the government in the presence of the victims and NGOs and appropriate compensation given to the poor and helpless victims. Action taken report on the household properties may be reported.

24. Some of the Banks reportedly have forcefully deducted from the relief funds of some of the victims who have previous taken loans as a result of which they cannot reconstruct their houses. Since this is in violation of the RBI's Instruction immediate reversal of the banks action is necessary.

Miscellaneous:

1. The State Government may reopen selected cases which have ended in acquittal entrusting a few cases each to officers of the rank of inspector of police/Dy SP /ASP with the investigation and not inexperienced Sub-Inspectors.
2. The Complaint of some Christian leaders that the two Fast Track Courts established at Phulbani seem to be too fast as if they are in a hurry to dispose the cases without proper trial which may be looked into as the accused are acquitted in large numbers in support of this view point.
3. The Orissa Freedom of Religion Act 1967 needs inclusion of "re-conversion by any means".
4. Allotment of lands to landless as a long term political solution to lawlessness calls for political initiative which may be acted upon.
5. All efforts by the central and state government to improve the situation in Kandhamal may be in tune with the provisions of International Human Rights Instruments that India has signed and ratified including CERD, CAT, CEDAW, CESCRC, CRC, UNPCR, UNDHR.
6. Restitution and Rehabilitation may be attempted as per the international standards set in paragraphs 16-18 and 25-29 of the UN Guiding Principles on Internal Displacement and paragraphs 52 to 68 of the UN Basic Principles and Guidelines on Development.
7. While about 12,500 reported to be resettled 17,500 more are reportedly still without home/placement. The State Government may conduct headcount in order to know the correct position.
8. 146 shops owned by minorities which enabled to be financially independent and were the source of their livelihood were totally destroyed, pushing them to penury. The State Government may announce compensation of Rs.2 to 3 lakhs depending on the extent of damage so that they are properly rehabilitated.
9. The State government may give compensation to those who have been killed but not enlisted in the government death list.

10. Dalit Christians may be provided all statutory as well as non-statutory benefits given to scheduled castes as faith in one or the other religion does not change their economic status overnight.
11. The state may make all efforts to provide medical and psychological, particularly trauma counseling to the victims/survivors of the murderous riots, particularly the women and children who witnessed the killing of their men.
12. All the victims' children may be given free education and free health care along with residential accommodation/hostel.
13. Special examination may be conducted for the children who could not attend examination due to the riots or who became drop outs and help them pass at least SSLC examination.
14. There may be a monitoring body for the whole process of relief and rehabilitation affecting women, children and senior citizens among the victims.
15. The district administration may ensure that pension are given to all senior citizens, widows, physically handicapped and orphans who have lost one or both parents in the violence are taken care of.
16. Confidence and peace building initiatives by the state and the district administration may have the participation of members of the affected communities particularly women.
17. The State Government has been requested to provide land for putting up a Church near Salia Sahi, Bhubaneswar where more than 3000 violence affected displaced Christians have been shelter. The State Government may allot this land for Church purposes as the religious practices of these people are affected adversely.
18. Adequate measures need be undertaken by the State Government for peaceful celebration of Christian festivals particularly Christmas in Kandhamal and other places.
19. Monitoring for implementation of Prime Minister new 15 point programme for minorities particularly in Kandhamal may be seriously done and Kandhamal declared as Minority concentrated District.
20. Special loan packages may be given to minority women and farmers.
21. All the agriculture bank loans taken by farmers may be waived off as they are not able to pay it back.
22. Kandhamal minority youth may be exempted from payment of school & examination fees as per the provision of RTE.
23. State Minority Commission may be formed in Orissa to act as nodal agency for the implementation of programmes and schemes meant for minorities' development.

Follow-up Action Taken Report may please be sent after one month from the date of this letter.

With best wishes

Yours sincerely

Sd/-

(Dr. H. T. Sangliana)

To

Shri Naveen Patnaik
Chief Minister
Government of Orissa
Bhubaneswar

C.C to : The Chief Secretary, Orissa
The Governor, Orissa