

BEFORE THE NATIONAL COMMISSION FOR SCHEDULED TRIBES

The National Commission For Scheduled Tribes

Government of India

6th Floor, B-Wing, Lok Nayak Bhawan,

Khan Market, New Delhi – 110003

Complaint under Article 338A(5)(a), Article 338A(5)(b) and Article 338A(8) of the Constitution of India read with the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, as amended, and the Rules of Procedure of the National Commission for Scheduled Tribes

IN THE MATTER OF:

Tribal Gujjar Bakkerwal Welfare Foundation (TGBWF),

a registered Non-Government Organisation working for the welfare, protection and advancement of the Gujjar-Bakkerwal community and for preservation and promotion of its culture, language and traditions, besides working in allied areas concerning social justice, tribal welfare, education and protection of vulnerable members of the community, through its duly authorised representative,

Sh. Kabir Ahmed,

Member Trustee,

R/o Dhanyote, Tehsil Kalakote, District Rajouri-185202

Mobile : 8803137259

... Complainant

VERSUS

1. **Union Territory of Jammu & Kashmir,**
through the Chief Secretary,
Civil Secretariat, Jammu/Srinagar.
2. **Director General of Police, Jammu & Kashmir,**
Police Headquarters, J&K.
3. **Senior Superintendent of Police, Kishtwar,**
District Kishtwar, Jammu & Kashmir.
4. **Deputy Commissioner/District Magistrate, Kishtwar,**
District Kishtwar, Jammu & Kashmir.
5. **Administrative Secretary, Tribal Affairs Department, Government of Jammu & Kashmir,**

Civil Secretariat, Jammu/Srinagar.

6. **Administrative Secretary, Social Welfare Department, Government of Jammu & Kashmir,**
Civil Secretariat, Jammu/Srinagar.
7. **Administrative Secretary, School Education Department, Government of Jammu & Kashmir,**
Civil Secretariat, Jammu/Srinagar.
8. **Secretary, District Legal Services Authority,**
Kishtwar.
9. **Director School Education, Jammu,**
Muthi, Jammu, Jammu & Kashmir.
10. **Chief Education Officer, Kishtwar,**
District Kishtwar, Jammu & Kashmir.
11. **Station House Officer, Police Station Chatroo,**
District Kishtwar, Jammu & Kashmir.

... Respondents/Authorities Concerned

IN THE MATTER CONCERNING:

Non-invocation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 in FIR No. 34/2026, Police Station Chatroo, District Kishtwar, concerning the alleged repeated sexual assault and consequent death of a minor Gujjar Scheduled Tribe girl by her own Government School teacher; alleged threats, monetary inducement and community-level attempt to suppress the offence; protection of the deceased child's impoverished tribal family and witnesses; statutory compensation in addition to compensation under POCSO and other laws, relief and rehabilitation; investigation into possible wider participation in the alleged suppression attempt; and enforcement of the constitutional and statutory safeguards available to Scheduled Tribes and monitoring of the investigation by the Commission.

MOST RESPECTFULLY SUBMITTED:

1. That the complainant, Tribal Gujjar Bakkerwal Welfare Foundation, is an Registered Organisation working for the welfare, dignity, protection and advancement of the Gujjar-Bakkerwal community and for preservation and

promotion of its culture, language and traditions, besides taking up issues relating to social justice, tribal rights, education and protection of vulnerable members of the community. **The present complaint is being instituted in furtherance of the complainant's objectives and in order to secure enforcement of the constitutional and statutory safeguards available to the deceased minor child and her family, who belong to the Gujjar Scheduled Tribe.**

2. That Respondent No. 1 is the Union Territory Administration responsible for implementation of the constitutional and statutory safeguards available to Scheduled Tribes within Jammu & Kashmir. Respondent Nos. 2, 3 and 11 are the police authorities concerned with registration, investigation and supervision of **FIR No. 34/2026, Police Station Chatroo, District Kishtwar**. Respondent No. 4 is the District Magistrate having statutory responsibilities under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Rules concerning relief, rehabilitation, protection and district-level monitoring. Respondent Nos. 5 and 6 are the departments concerned with tribal and social-welfare safeguards, while Respondent Nos. 7, 9 and 10 are the School Education Authorities arising from the accused being a Government School teacher/Headmaster and Respondent 8 is the District Legal Services Authority concerned with legal aid and victim compensation/assistance.
3. That the complainant is constrained to approach this Hon'ble Commission because, **notwithstanding the fact that the deceased minor belonged to the Gujjar community, which is a notified Scheduled Tribe in Jammu & Kashmir, FIR No. 34/2026 presently does not reflect invocation of Section 3(1)(w)(i), Section 3(2)(v), Section 3(2)(va) and other applicable provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989**, thereby raising serious concerns regarding denial of the special statutory safeguards, investigative protections, victim and witness rights, relief, rehabilitation and compensation available to a Scheduled Tribe victim and her dependants.
A copy of the FIR no. 34/2026 with name and other details identifying the victim redacted, is attached herewith for the kind perusal of the Hon'ble Commission.
4. That the complainant consciously refrains from disclosing the name and other unnecessary identifying particulars of the deceased minor child in order to preserve her dignity and confidentiality in accordance with the

POCSO Act and other applicable law. Necessary particulars may be furnished confidentially to this Hon'ble Commission if so required.

5. **That FIR No. 34/2026 stands registered at Police Station Chatroo, District Kishtwar, against accused Khalid Hussain and his brother Tariq Hussain, inter alia under Sections 61(2), 65(1), 90, 91 and 92 of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 6, 8, 10 and 17 of the Protection of Children from Sexual Offences Act, 2012. A copy of the FIR is annexed with the present complaint.**
6. **That the FIR records the deceased as a minor girl aged approximately 13–14 years, studying in Class V and belonging to the Gujjar community. The Gujjar community is a constitutionally notified Scheduled Tribe in the Union Territory of Jammu & Kashmir, and the deceased child was therefore entitled to the complete protection of the applicable provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Rules framed thereunder, besides the protections available under POCSO and general criminal law.**
7. That the case is aggravated by the fact that accused Khalid Hussain was allegedly serving as the teacher/Headmaster of the very Government Middle School in which the deceased child was studying. The accused thus occupied a position of authority, confidence and institutional dominance over the minor and was in regular personal contact with her. The FIR alleges that the accused repeatedly subjected the minor to sexual assault, as a consequence whereof she became pregnant.
8. **That accused Khalid Hussain and Tariq Hussain are stated to belong to the Sheikh community and are stated not to be members of any Scheduled Caste or Scheduled Tribe.** Their community status may be formally verified by the competent authority. Once their non-SC/ST status is established, the facts disclosed in the FIR require immediate examination under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
9. **That despite the deceased being a Gujjar Scheduled Tribe child, notwithstanding the grave sexual offences alleged against her, and despite the stated non-SC/ST status of the accused persons, not a single applicable provision of the Scheduled Castes and the Scheduled Tribes**

(Prevention of Atrocities) Act, 1989 has been invoked in FIR No. 34/2026. The omission is serious and has the effect of depriving the deceased child's family of the special investigative, prosecutorial, protective, compensatory and participatory safeguards created by Parliament for victims of atrocities belonging to Scheduled Tribes.

10. That **Section 3(1)(w)(i) of the PoA Act** specifically makes punishable intentional touching of a woman belonging to a Scheduled Caste or Scheduled Tribe, knowing her Scheduled Caste/Scheduled Tribe status, where such touching is of a sexual nature and without consent. The allegations of repeated penetrative sexual assault upon the deceased minor necessarily warrant examination of the applicability of the said provision, in addition to the graver provisions of the PoA Act attracted by the substantive offences.
11. That **Section 3(2)(v) of the PoA Act** is of particular significance. Under the post-2016 statutory regime, where a person not belonging to a Scheduled Caste or Scheduled Tribe commits a grave substantive offence punishable with imprisonment for ten years or more against an SC/ST person knowing that the victim belongs to a Scheduled Caste or Scheduled Tribe, the special provision is attracted and prescribes imprisonment for life and fine. The offences presently alleged in the FIR, including the offence under Section 65(1) BNS concerning rape of a minor below sixteen years and the offences relating to the fatal pregnancy-termination episode, are offences of an exceptionally grave character carrying punishment far beyond the statutory threshold contemplated by Section 3(2)(v).
12. That Section 3(2)(va) of the PoA act, is also liable to be examined, as the deceased was a minor belonging to the Gujjar Scheduled Tribe and the accused stated to be non-SC/ST person. The investigating agency is therefore required to determine whether the substantive offences disclosed in the FIR correspond to offences specified in the Schedule to the PoA Act and, wherever the statutory ingredients are satisfied, invoke section 3(2)(va), particularly in view of the prima facie presumption of knowledge of the victim's tribal identity under section 8(c) arising from the teacher-student relationship.
13. That **Section 8(c) of the PoA Act** further provides a specific statutory presumption where the accused had personal knowledge of the victim or her family: the Authorities/Court shall presume, unless the contrary is proved,

that the accused was aware of the caste or tribal identity of the victim. In the present case, accused Khalid Hussain was allegedly the child's own teacher/Headmaster, resided in the same local area and was personally acquainted with the minor. The circumstances thus furnish an exceptionally strong prima facie basis for examination of the statutory presumption regarding his knowledge of the deceased child's Gujjar Scheduled Tribe identity.

14. **That the non-invocation of Sections 3(1)(w)(i), 3(2)(v) 3(2)(va) and such other provisions of the PoA Act as may be attracted is therefore prima facie inexplicable and requires the immediate intervention of this Hon'ble Commission. The investigating agency ought to be required to forthwith examine the applicability of the PoA provisions and, upon verification of the statutory ingredients, incorporate the appropriate provisions without delay.**
15. That the FIR itself contains the disturbing allegation that after the pregnancy became known, attempts were made to threaten the victim's family and offer money for suppressing or settling the matter. This allegation assumes particular seriousness because the deceased belonged to an economically weak and vulnerable tribal family which, owing to its social and economic position, was manifestly susceptible to pressure from locally dominant or influential persons.
16. That the Foundation has further received information from local/media sources, including some locally circulating video statements, alleging that after disclosure of the pregnancy a Panchayat/community meeting also involving politically connected individuals was convened in which attempts were allegedly made to suppress the matter by offering money to the deceased child's family and exerting pressure upon them not to pursue the offence. Further, it is reported in the videos that certain medical practitioners and other persons have also facilitated the termination of the pregnancy causing death and destruction, disappearance, concealment or suppression of the evidence and committing other offences.

The online links to the relevant videos, as accessed on 23-08-2026 at around 20:40 Hrs. are being provided hereinbelow for the kind perusal and consideration of this Hon'ble Commission.

- <https://www.facebook.com/share/v/17urQb3aoH/>

- <https://www.facebook.com/share/v/1EhJ7ou5ew/>
- <https://www.facebook.com/share/v/19nbQPQe52/>
- <https://www.facebook.com/share/v/14ksWWgeJ4W/>

17. That according to the information presently available to the complainant, the said alleged Panchayat occurred after disclosure of the pregnancy but before the alleged forcible administration of pregnancy-termination medicine. This chronology makes the Panchayat a crucial part of the factual chain rather than merely an informal meeting held after completion of the criminal occurrence.

18. That the relevant sequence requiring investigation is that the minor was allegedly subjected to repeated sexual exploitation by her teacher; she became pregnant; the pregnancy was disclosed; an alleged Panchayat thereafter intervened and attempted a monetary settlement/suppression; and subsequently the pregnancy was allegedly sought to be forcibly terminated through medication allegedly involving certain medical practitioners, resulting in deterioration of the child's condition and ultimately the death of the minor as well as the child she was carrying.

19. That the investigating agency must therefore identify every person who convened or participated in the alleged Panchayat and determine precisely what each participant knew and did. It must be ascertained who proposed settlement, who offered or arranged money, what amount was offered, what the tribal family was asked to do or refrain from doing in return, whether any threat or social pressure was exerted, whether termination of the pregnancy was discussed, who subsequently procured or arranged the medicines, whether any participant arranged transport or medical assistance, and whether any of the persons participating in the Panchayat subsequently aided, facilitated, financed, concealed or encouraged the fatal pregnancy-termination episode.

20. That attendance at a community meeting by itself may not establish conspiracy; however, if evidence discloses that any participant agreed to or intentionally assisted the subsequent unlawful course of conduct, such person cannot be permitted to escape investigation merely because he was not initially named as an accused or is having political or other any influence

in the society. The possible participation of additional persons in the suppression attempt and subsequent events therefore requires a specific and independent line of investigation.

21. That the locally circulating videos concerning the alleged Panchayat and involvement of medical practitioners requires immediate preservation in its original electronic form. The maker of the statement ought to be identified and examined, the date and place of the alleged Panchayat ascertained, the participants identified and all legally obtainable corroborative digital evidence, communications, electronic payments, call records and other material secured before loss or manipulation.
22. That Sections 19 and 21 of the POCSO Act cast a mandatory obligation upon any person having knowledge or apprehension of commission of an offence under the act to report the same to the Special Juvenile Police Unit or local police, and failure to report such offence is punishable under Section 21. In the present case, the investigating agency is therefore required to ascertain whether any school official, medical practitioner, panchayat participant or other person had prior knowledge of the alleged sexual assault, pregnancy or attempted suppression of the offence and, if so, whether the mandatory reporting obligation under Section 19 was complied with and appropriate action under Section 21 is warranted.
23. That the alleged threats and monetary inducement also trigger the victim and witness protection regime under **Section 15A of the PoA Act**. The State is under a statutory obligation to ensure protection of victims, their dependants and witnesses against intimidation, coercion, inducement and violence and to keep them appropriately informed and enabled to participate in the criminal process.
24. That the economic and migratory vulnerability of the deceased child's tribal family makes such protection all the more necessary. The family should not be left dependent upon informal local arrangements or exposed to persons connected with the accused. An immediate threat assessment is required and, depending upon the result, round-the-clock or need-based police protection, safe accommodation, secure transportation, confidentiality of their whereabouts and restrictions upon unauthorised contact by persons acting on behalf of the accused should be considered.

25. That once the applicable provisions of the PoA Act are invoked, investigation is required to be undertaken in accordance with Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, including investigation by an officer of the prescribed senior rank, and the investigation and filing of charge-sheet are required to be accorded top priority within the statutory time framework, with reasons for any delay recorded in writing.
26. That the omission to apply the PoA Act has further resulted in the family not receiving the immediate statutory monetary relief and rehabilitation available under Rule 12 of the PoA Rules. Rule 12(4) casts a duty upon the District Magistrate/Sub-Divisional Magistrate/Executive Magistrate to make necessary arrangements and provide relief in cash or kind or both to victims, family members and dependants according to the statutory Schedule within the prescribed period.
27. That the rules prescribes **Rs.8,25,000** as the minimum relief in cases of murder or death, ordinarily payable to the extent of 50 per cent after the post-mortem report and the balance 50 per cent when the charge-sheet is sent to Court. The competent District Administration is therefore required to determine and disburse the amount immediately upon invocation of the Act and satisfaction of the relevant conditions without waiting for conclusion of trial.
28. That the authorities should additionally determine and release every further amount independently admissible under the Schedule in respect of the sexual offence and other atrocities disclosed by the case and any higher relief or ex-gratia amount available under a Central or Jammu & Kashmir scheme/order. Such relief cannot be treated as a substitute for compensation under the POCSO Act, the applicable Victim Compensation Scheme or any other law.
29. That the 2018 amendment to Rule 12 expressly clarifies that relief under the PoA Rules in respect of death, injury, rape, gang rape and other specified atrocities is in addition to any other right to claim compensation under any other law for the time being in force. The victim's family is therefore entitled to pursue PoA statutory relief simultaneously and independently of compensation available under the POCSO/Victim Compensation framework.

30. That the District Magistrate/Deputy Commissioner, Kishtwar should consequently be directed to immediately process and release not less than Rs.8,25,000 as the statutory relief applicable to murder/death under the Central PoA Rules, together with every additional or higher amount legally admissible for the sexual atrocity and under any applicable J&K/UT scheme, including any higher ex-gratia amount if such entitlement is available under a separate subsisting Government order or scheme, without prejudice to separate POCSO compensation and other victim-compensation entitlements.
31. That the omission to invoke the PoA Act also requires examination from the standpoint of Section 4 of the Act, which provides consequences for wilful neglect by public servants of duties required to be performed under the Act and Rules. The complainant does not seek any premature finding against any particular officer; however, if after the Scheduled Tribe status of the victim and the non-SC/ST status of the accused became known the competent officials deliberately failed to apply the Act, ensure proper investigation, protection or statutory relief, such omission should be independently examined under Section 4 and the relevant statutory framework.
32. That the Rules of Procedure of the National Commission for Scheduled Tribes particularly clause/rule 15, themselves specifically contemplate intervention in cases of atrocities upon Scheduled Tribes. The Commission monitors whether the proper FIR has been registered, whether the names of all persons involved have been included, whether investigation has been taken up by the prescribed senior police officer, whether offenders have been apprehended without loss of time, whether the proper provisions of the PoA Act have been invoked in the charge-sheet, whether the matter is tried by the Special Court, whether a Special Public Prosecutor has been appointed, whether the victim has received timely medical assistance and adequate protection and whether proper statutory compensation has been paid.
33. That the Commission's Rules of Procedure further permit the Commission, in appropriate atrocity cases, to immediately call upon the State Government, Union Territory Administration, District Administration and police authorities for reports and, in serious cases, summon concerned authorities within a period as short as three days.

The present case, involving alleged repeated rape of a Scheduled Tribe child by her own teacher, pregnancy, attempted suppression and consequent death, deserves the highest level of such statutory monitoring.

- 34. That Article 338A(5)(a) of the Constitution mandates this Hon'ble Commission to investigate and monitor all matters relating to safeguards provided for Scheduled Tribes under the Constitution or any law and to evaluate the working of such safeguards. Article 338A(5)(b) further empowers the Commission to inquire into specific complaints concerning deprivation of the rights and safeguards of Scheduled Tribes. Under Article 338A(8), the Commission possesses, for such investigation and inquiry, the powers of a civil court including summoning persons, compelling production of documents, receiving evidence on affidavit and requisitioning public records.**
- 35. That the present complaint falls squarely within the constitutional mandate of the Commission because the principal grievance is not merely that a Scheduled Tribe child became the victim of grave offences, but that despite the victim's tribal status the special statutory machinery intended to protect her and her family has apparently not been activated at all.**
36. That immediate intervention is also necessary to prevent the omission from becoming irreversible. Unless the PoA provisions are added promptly, investigation may continue without the safeguards of Rule 7, the family may remain outside the statutory victim-protection regime, statutory compensation may remain unpaid and possible additional persons involved in intimidation and suppression may escape focused investigation under the special law.
37. That the complainant therefore respectfully seeks intervention not for interference with an independent criminal investigation, but to ensure that the investigation itself proceeds under the correct statutory framework, that the Scheduled Tribe status of the deceased is given its lawful consequence, and that the family is not deprived of rights expressly guaranteed by Parliament.

PRAYER

In view of the facts and circumstances stated hereinabove, it is most respectfully prayed that the Hon'ble National Commission for Scheduled Tribes may graciously be pleased to:

- A. take immediate cognisance of the present complaint under Article 338A of the Constitution of India and register the matter as an urgent atrocity-related complaint requiring monitoring by the Commission;
- B. call for a comprehensive Action Taken Report, preferably within three days, from the Chief Secretary, J&K, Director General of Police, J&K, Senior Superintendent of Police, Kishtwar, Deputy Commissioner/District Magistrate, Kishtwar and other concerned authorities regarding the non-invocation of the SC/ST (Prevention of Atrocities) Act, 1989 in FIR No. 34/2026 and the action taken for protection, compensation and rehabilitation of the victim's family;
- C. require the competent investigating authorities to immediately verify the Scheduled Tribe status of the deceased child and the SC/ST status of accused Khalid Hussain and Tariq Hussain and, upon satisfaction of the statutory ingredients, invoke Sections 3(1)(w)(i), 3(2)(v), 3(2)(va), wherever attracted, and all other applicable provisions of the PoA Act, particularly having regard to the statutory presumption under Section 8(c);
- D. ensure that, upon invocation of the PoA Act, the investigation is conducted strictly in accordance with Rule 7 of the SC/ST (Prevention of Atrocities) Rules, 1995, by an officer of the prescribed rank, under proper senior-level supervision and within the statutory framework;
- E. require a specific and independent investigation into the alleged Panchayat/community meeting, threats, coercion, monetary inducement, attempted settlement and suppression of the offence, and ascertain the role of every person who convened, participated in, facilitated or subsequently acted pursuant to such alleged suppression, including examination of liability under Sections 19 and 21 of the POCSO Act wherever attracted;
- F. ensure immediate preservation, forensic securing and lawful examination of all material evidence, including the circulating videos and electronic communications, call records, financial transactions, school records, medical

and diagnostic records, prescriptions, pharmacy records, medicines and other material connected with the alleged pregnancy-termination episode, so that crucial evidence is not lost, destroyed, concealed or manipulated;

- G. direct a formal threat assessment of the deceased child's parents, siblings and material witnesses and ensure strict enforcement of Section 15A of the PoA Act, including appropriate police protection, safe accommodation, transportation, confidentiality, legal assistance and protection against intimidation, coercion or inducement;
- H. require the Deputy Commissioner/District Magistrate, Kishtwar and other competent authorities to immediately process and disburse all statutory relief, compensation and rehabilitation benefits under Rule 12 read with Annexure-I of the PoA Rules, together with all independently admissible compensation under the POCSO/Victim Compensation framework and any other applicable Central or J&K/UT scheme, without impermissible duplication;
- I. require the District Administration, Tribal Affairs Department, Social Welfare Department and District Legal Services Authority, Kishtwar to coordinate and provide an effective single-window mechanism to the victim's family for compensation, rehabilitation, counselling, legal assistance, welfare benefits and protection;
- J. require examination of any wilful neglect of statutory duty by public servants under Section 4 of the PoA Act, including failure, despite knowledge of the relevant facts, to examine/apply the applicable PoA provisions, provide statutory protection or process relief and rehabilitation mandated by law;
- K. require the School Education Department to verify the accused's official position and preserve all relevant institutional records and, through an appropriate confidential child-protection mechanism, ascertain whether any other child who came into institutional contact with the accused may have been subjected to sexual abuse, harassment or other conduct constituting an offence under the POCSO Act or other applicable law; and
- L. continue monitoring the matter by calling for periodic progress reports from the SSP Kishtwar and District Magistrate Kishtwar and, if considered necessary, summon the concerned officers, requisition the FIR, status report,

caste-status verification, protection and compensation records, investigation material concerning the alleged Panchayat and suppression attempt, and/or depute a Member/officer of the Commission for fact-finding, until the applicability of the PoA Act has been duly determined, all provisions found attracted have been invoked, statutory protection and relief have been provided and the investigation has been taken to its lawful conclusion, AND

M. pass such other or further order, recommendation or direction as this Hon'ble Commission may consider just and necessary for securing the constitutional and statutory safeguards of the deceased Scheduled Tribe child and her family and preventing further intimidation or denial of justice.

Place: Jammu

Complainant

Date: 23-08-2026

For Tribal Gujjar Bakkerwal Welfare Foundation
Through its Authorised Representative

Sh. Kabir Ahmed,

Member Trustee,

R/o Dhanyote, Tehsil Kalakote,

District Rajouri-185202

Mobile : 8803137259

Email is:tgbwf1@gmail.com