



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. RR/23/2017/STGMH/DEOTH/RU-IV

01.04.2019

To,

1. **The Commissioner & Registrar of Cooperative Societies,**
Govt. of Maharashtra,
2nd Floor, New Central Building,
Dr Baba Saheb Ambedkar Road, Pune,
Maharashtra 411001
2. **The Commissioner of Police,**
Maharashtra Police,
Mumbai.
3. **The Principal Secretary (Revenue)**
Revenue and Forest Department,
Government of Maharashtra,
Mantralaya, Mumbai- 400032
4. **The Principal Secretary,**
Tribal Development Department,
Government of Maharashtra,
Mantralaya, Mumbai- 400032
5. **The Vice President & CEO,**
MHADA,
Grihanirman Bhawan,
Kalanagar,
Bandra (East), Mumbai – 400 051.
6. **Chief Executive Officer,**
Slum Rehabilitation Authority, Mumbai
Administrative Building,
Anant Kanekar Marg, Bandra (East)
Mumbai- 400051
7. **The District Collector,**
Collector Office
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetna College,
Government Colony,
Bandra (East), Mumbai - 400 051

Sub: Representation of Shri Santosh Vishnu Baglania, Vithal Nagar Co-operative Society, Devipada-Borivali (East), Mumbai regarding alienation of ST land at Taluka-Borivali-Village Magthane, Survey No. 34 and others. (Reference Shri Rajiv Ranjan).

Sir,

I am directed to refer to the subject mentioned above and to enclose herewith a copy of the Proceedings of the Sitting held on 27.02.2019 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes for necessary action at your end.

It is requested that an action taken report on the Commission's recommendations may please be intimated to the Commission within 15 days for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

(Y.K. Bansal)

Research Officer

Encl: As above

Copy to:

Shri Santosh Vishnu Bagalaniya Dhodi,
Room No. 1B 708, Building No. 1,
Vittal Nagar Co-Operating Society,
Devi Pada, Borivali (E), Mumbai – 400 066. (Maharashtra).

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. RR/23/2017/STGMH/DEOTH/RU-IV

PROCEEDINGS OF SITTING HELD ON 27.02.2019 CHAIRED BY SHRI NAND KUMAR SAI, HON'BLE CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI SANTOSH VISHNU BAGLANIYA (DHODI) AND OTHERS, VITHAL NAGAR CO-OPERATIVE SOCIETY, DEVIPADA-BORIVALI (EAST), MUMBAI REGARDING ALIENATION OF ST LAND SURVEY NO. 34 AT TALUKA-BORIVALI-VILLAGE MAGATHANE, (REFERENCE SHRI RAJIV RANJAN CASE).


Date of Sitting: 27.02.2019

List of officers present in sitting is Annexed.

The petitioner, Shri Santosh Vishnu Baglaniya (Dhodi) and others, Vithal Nagar Co-operative Society, Devipada-Borivali (East), Mumbai regarding alienation of ST land Survey no. 34 situated at Taluka-Borivali-Village Magathane,

The petitioner has alleged that the site in question in the village Magathane was a part of the then Shasthi taluka of Thane District. Presently this place is a part of Borivali Taluka of Mumbai Sub-Urban District. Though, the geographical boundaries of the District were changed due to creation of Mumbai Sub-urban District, this site and village was not a part of Mumbai sub-urban District and continued to be a part of Thane District which is a notified tribal district. Thus, the provisions of notification No. TNC 5157/31190-M dated 29/03/1957, issued under clause (b) of section 88 of the Maharashtra Tenancy and Agricultural Act, by which State Government has specified village Magathane as being reserved for non-agricultural and industrial development does not apply to the land and village in question. He sought some time to produce records in support of his submission. He also informed that the land of the applicants was acquired from the year 1964 to 1967 but they were dispossessed in the year 2007 and thus they had a right of adverse possession on the land. The acquisition is also not complete in terms of LA Act as complete payment has not been made to the family. He also submitted that presence of representative of SRA was also very much required for arriving at any conclusion in the matter. He submitted that MHADA has said that the housing project is made by SRA whereas SRA, in response to a RTI application of Shri Santosh Vishnu Balganiya, has informed him in writing vide letter dated 30.06.2017 that it has not declared plot no. 209, 210, 211 and 213 as slum. If the land in question was not declared a slum, how SRA could have emerged in the picture for development of slum area? He reiterated that the applicants were denied of their legitimate rights on the land and any compensation which they would have received due to land acquisition by MHADA or SRA. He also questioned the utilization of land for construction of high rise apartment by private builder at a part of the site. He submitted that the title of the land still continues in the name of the family members of Shri Santosh Vishnu Baglaniya (Dhodi) and thus, the construction and sale of flats at the site should be immediately stopped. The Commission's recommendations dated 04.01.2018 and 15.03.2018 has not been implemented by the authorities' concerned and the petitioners have been deprived their legitimate rights. The construction and sell/purchase activities on the land are still going on and as per the Commission's recommendations, no flats as assured were allotted to the petitioner's family so far by the SRA authorities.

2. Earlier the case was discussed in the sitting held on 04.01.2018, 15.03.2018 and 15.11.2018 in the Commission and issued recommendations for taking necessary action to protect the interest of the Scheduled Tribes. The gist of the Commission's recommendation issued in the sitting held on 15.03.2018 that

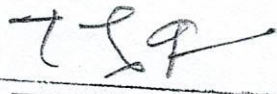

नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
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- Family of affected person should be allotted a flat on permanent basis in the said society by the SRA and MHADA, as way their due,
- SRA should re-examine the matter, as there were some more eligible tenements in the family of Shri Vishnu Govind Bagalnia.
- Chronological events in relation to land in question should be prepared by Revenue Department, Govt. of Maharashtra and submitted to the Commission.
- All Construction and sale activities by MHADA, SRA or private builders at the site in question should be stopped immediately till the rights of Scheduled Tribes on this land are duly examined by the NCST.
- A report may urgently be sent to the Commission regarding death of a family member of the applicant namely Snehal D/o Mrs. Kanu Kharvi who allegedly committed suicide due to threatening by the officer bearers of the society for vacating the flat and the action taken by local Police on the complaint of the applicant Shri Santosh Vishnu Baglaniya (Dhodi). A copy of FIR, Post-mortem report and enquiry report of Police may be forwarded to the Commission within 15 days of receipt of this report.
- Protection should be provided to the applicant's family and Shri Rajiv Ranjan, Advocate pursuing their case who are allegedly being threatened by builder lobby and office bearers of above society ensuring their safety and security so that they feel protected and safe in the society and its vicinity.

3. In compliance with the Commission's recommendations, the SRA authorities vide its letter dated 10.01.2019 has submitted an action taken report wherein the following have been reported.

- Regarding allotment of flat to the petitioner's family, it is informed that late Shri Vishnu Govind Bagalnia father of the present complainant/petitioner was one of the eligible slum dwellers. He was declared eligible for the purpose of residential tenement. After his death, his widow Smt. Manjula alias Smt. Laxmi Vishnu Bagalnia has been allotted tenement No. 708 in building 1, Wing B of the building. Presently, she is occupying the said tenement.
- The Deputy Collector (SRA) has examined the issue relating to eligibility of more tenement in the petitioner's family and submitted report on 14.11.2018. It is found that, no other member from family of Shri Vishnu Govind Bagalnia is eligible for the benefit of the subject S.R. Scheme.
- The chronological events in relation to land in question pertains to Revenue Department, Govt. of Maharashtra and the same will be provided by them.
- Regarding stoppage of construction/sale/purchase activities, as per Commission's recommendation, stop work notice to Developer & Architect was issued vide No. SRA/ENG/Desk-2/ED/2018/30399/RC dated 15.05.2018. However, this issue will have to be dealt as per the law settled by Hon'ble High Court, Mumbai in Writ Petition No. 2270/2014 dated 28.07.2016.

4. The Commissioner of Police, Greater Mumbai vide its letter dated 11.02.2019 has also submitted a report, wherein it has been informed the Commission that on 31.08.2017 the Kasturba Marg Police Station, Mumbai received a message that one Miss Snehal Kanu Kharavi aged 17 years residing Flat No. 708, Bldg. No. B/1, Vittal Nagar Society, Devipada, Borivali (East), Mumbai had alleged committed suicide in the said premises by hanging herself with dupatta to ceiling fan in the kitchen. The case was investigated by the Local Police Station under A.D.R. No. 67/2017, u/s 174 of C.R.P.C. During the course of inquiry, a suicide note


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was also recovered from the clothes of the deceased wherein there was mentioned about suicide due to studies related problems. In addition, in Post Mortem report of the deceased, it was established the cause of death as evidence of ligature mark over the neck. The deceased girl belonged to petitioner's family and, none of family members of the deceased had made any complaint of foul play. Hence, the inquiry was concluded that no Cognizable Offence has been committed, therefore no criminal case or any Cognizable Offence has been registered hereto. As regard the threats apprehended by the petitioner, the Local Police Authorities have been instructed to provide security to the petitioner's family. Moreover, Police Mobile Van has been deployed nearby to petitioner's residence.

5. The action taken report was found to be unsatisfactory. Hence, the Hon'ble Chairperson, NCST has decided to hold a sitting with all concerned authorities in the case on 27.02.2019 in the Commission.

6. The sitting was held on 27.02.2019. The Chief Executive Officer, SRA and the Vice-President and Chief Executive Officer, MHADA did not appear. The Commission has taken serious view of non-appearance of both officers and decided that both officers may be called by issuance of summons/warrant of arrest in the next sitting. However, the sitting was attended by the Additional Chief Secretary, Revenue, Maharashtra, Principal Secretary, Tribal Development Department, Maharashtra, The Commissioner (Co-operation) and Registrar Co-operative Society, Pune, Joint Registrar, Co-operative Society, SRA, DCP, Zone - XII, Mumbai, Additional Collector, Mumbai Suburban District, Deputy Collector, Slum Rehabilitation Authority (SRA), Mumbai, Chief Officer, Mumbai Housing & Area Development Board (MHADA), Mumbai and Joint Chief Officer, Mumbai Housing & Area Development Board (MHADA), Mumbai. The petitioner was also present.

7. During the sitting, the petitioner has submitted that none of the Commission's recommendations was complied with the authority concerned particularly SRA and MHADA authorities. The SRA has allotted one small flat measuring 250 sq. ft. to 12 family members of the petitioner. But no allotment letter/related documents of the flat have been given to the petitioner. The petitioner is having 12 members in the family residing separately and were in cultivation on the land before the acquisition. The SRA was directed to allot atleast one flat to each family members and the same has been denied. In addition, the area of the flat allotted to other slum dwellers are more than to the area of the flat allotted to the petitioner which is a discriminatory attitude towards the Scheduled Tribes. The construction and sale/purchase activities from the developer/builder side are still going on despite Commission's direction of stoppage of construction activities. There is also threat from the builder/developer side and no Police action has not been initiated against the accused persons so far. The Police has also not conducted proper inquiry into the death case of family's girl namely Snehal Kanu Kharavi.

8. In sitting, the Additional Chief Secretary, Revenue appraised the Commission that the land in question was acquired by the MHADA and SRA authorities to construct the Western Express Way and develop the land for rehabilitation of slum dwellers. The petitioner was slum dwellers on the land. The Revenue Department does not have any role in the matter. The Deputy Collector, a representative from SRA authorities informed the Commission that as per the Commission's recommendation one flat in the society has been allotted to the petitioner. The allotment letter/related document of the flat will be handed over to the petitioner within 07 days period. However, allotment of flat to other family members of the petitioner was examined and does not found eligible.



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9. The case was discussed in detail. The Commission observed that the issue relating to alienation of land belonging to Scheduled Tribe is serious in nature. The Commission conducted on the spot inquiry into the case and thereafter, the case was examined by the view of conducting sittings on 04.01.2018, 15.03.2018 and 15.11.2018 in the Commission. After detailed examination, the Commission issued its recommendations to safeguards the rights of the Scheduled Tribes. But, the SRA authority, MHADA authority and District Collector, Mumbai Suburban have failed to implement the Commission's recommendations. The Commission also noted that the construction, sale/purchase activities on the land is still going on despite issuance of the SRA notice dated 15.05.2018 to the developers/builders. Thus, it appears that the authorities concerned are not sensitive towards the protection of the interest of Scheduled Tribes. The Commission however, recommends that:

- The SRA authority will hand over the allotment letter/other related documents of the flat No. 708 allotted to the petitioner within one week period.
- The SRA authority will re-consider to allot one flat to each family members of the petitioner as there are more eligible tenements in the family.
- The construction, sale/purchase activities on the land in question should be stopped with immediate effect and in this regard, the SRA authority and MHADA authority will ensure that the Commission's recommendations be followed in toto.
- The title/ownership matter of the land will be examined by the District Collector, Mumbai Suburban and a report on this issue will be submitted to the Commission.
- Police protection should be provided to the petitioner and his family members as there is a threat from the builder/developer side.
- The case will be reviewed after receipt of the action taken report. For next sitting, Summons for appearance of the MHADA, SRA and District Collector, Mumbai Suburban be issued.
- An action taken report on the Commission's recommendation should be submitted to the Commission within 15 days from the receipt of the proceedings.

7/12/18
28.03.019

नन्द कुमार साय/Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Annexure

(File No. RR/23/2017/STGMH/DEOTH/RU-IV)

List of participants

NCST

1. Shri Nand Kumar Sai (In chair)
2. Miss Anusuiya Uikey, Hon'ble Vice-Chairperson
3. Shri Hari Krishna Damor, Hon'ble Member
4. Smt. Maya Chintamn Ivate, Hon'ble Member
5. Shri A.K. Singh, Secretary
6. Shri S.K. Ratho, Joint Secretary
7. Shri P.T. Jameskutty, Deputy Secretary
8. Shri Y.K. Bansal, Research Officer
9. Shri H.R. Meena, Sr. Investigator

Officers of Govt. of Maharashtra

1. Shri Manu Kumar Srivastava, Additional Chief Secretary (Revenue)
2. Ms. Manisha Verma, Principal Secretary, Tribal Development Department
3. Shri S.K. Soni, Commissioner (Co-operation) and Registrar Co-operative Society, Pune.
4. Shri S.S. Gaikwal, Joint Registrar, Co-operative Society, SRA
5. Dr. V. Naykumar M. Rathod, DCP, Zone – XII, Mumbai
6. Smt. Vaidehi Ranade, Additional Collector, Mumbai Suburban.
7. Dr. Kalyan Pandhare, Deputy Collector, Mumbai Suburban, Slum Rehabilitation Authority (SRA), Mumbai.
8. Shri D.K. Jagdale, Chief Officer, (Additional Charge), Mumbai Housing & Area Development Board (MHADA), Mumbai.
9. Shri Jivan Galande, Joint Chief Officer, Mumbai Housing & Area Development Board (MHADA), Mumbai.

Petitioner

Shri Santosh V Baglaniya