



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

13.08.2019

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,**
Dr Dadabhai Naoroji Road,
Opp Crawford Market, Dhobi Talao,
Chhatrapati Shivaji Terminus Area, Fort,
Mumbai, Maharashtra 400001
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. **The District Collector,**
Collector Office
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetna College, Government Colony,
Bandra (East), Mumbai - 400 051
7. **The Chief Executive Officer,**
Slum Rehabilitation Authority, Mumbai
Administrative Building,
Anant Kanekar Marg, Bandra (East)
Mumbai- 400051 (Maharashtra).

Sub: Proceedings of the sitting taken by Dr. Nand Kumar Sair, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 15.07.2019 in the matter 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 enclose herewith a copy of the Proceedings of the Sitting held on 15.07.2019 under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action and submission of compliance report to this Commission within 30 days from the receipt of the letter for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

(Y.K. Bansal)
(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).

✓ Copy to: - SAS, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

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

PROCEEDINGS OF SITTING HELD ON 15.07.2019 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: 15.07.2019

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 alleged that despite Commission's recommendations, no flat in the housing society has been given to the family members of the ST who lost the land. The construction activities and sale/purchase on the disputed land is going on and the SRA authorities and District Administration have failed to take action against the accused persons. Besides this, the petitioners were protected tenant of the said land and their names were recorded in Revenue record under 7/12 extract. However, the land was handed over to the private builders to construct housing societies. Thus, the tribals were deprived from their land.

2. Earlier the Commission took up this matter with concerned authorities of Government of Maharashtra and subsequently sittings 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. Thereafter another sitting in the case was held on 27.02.2019 in the Commission, wherein the Commission made the following recommendations.

- 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.

The Commission's recommendations were also communicated to the authority concerned for submission of action taken report on 01.04.2019.

3. Since, no action taken report was received from the authority concerned, a sitting was fixed on 15.07.2019 to have a discussion with the Commissioner & Registrar of Cooperative Societies, Govt. of Maharashtra, Pune., the Commissioner of Police, Maharashtra Police, Mumbai, the Principal Secretary (Revenue), Revenue and Forest Department, Government


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India

of Maharashtra, Mumbai, the Principal Secretary, Tribal Development Department, Government of Maharashtra, Mumbai, the Vice President & CEO, MHADA, Mumbai, the Chief Executive Officer, Slum Rehabilitation Authority, Mumbai and the District Collector, Mumbai Suburban District, Mumbai.

4. As per scheduled, the sitting was held on 15.07.2019. Secretary and Deputy Collector from Slum Rehabilitation Authority, Mumbai appeared with exemption request letter from CEO, SRA. No officers from other authority concerned were present. No communication about their non-appearance also received. The Commission took a serious note about non-appearance of those authorities.


5. During the sitting, the SRA authorities informed the Commission that as per the Commission's recommendations, following action were taken.

- (i) The SRA authority has issued allotment latterdated 06.03.2019 in respect of tenement No. 708 to Smt. Lakshi Vishnu Bagalania, widow of Shri Vishnu Govind Bagalania by speed post on 06.03.2019. The tenement was already allotted and possession is already with Smt. Bagalania.
- (ii) With regard to recommendations No.. 2 the SRA has no authority to modify policy of the Government of Maharashtra and codified law, regulations, rules and as such this directions cannot be complied within the four corners of Law. However, the statutory Competent Authority has to consider the eligibility of each of the claimants. In response to the direction, the letter dated 27.05.2019 was issued to the Additional Collector (E/R) Western Suburban for re-verification as to eligibility of the other family members. The Additional Collector forwarded said issues to the Appropriate Authority i.e. Dy. Chief Officer, MHADA for verification of eligibility. It is for the claimant to satisfy the eligibility as per legal norms and in case of any grievance as to eligibility, 1st Appeal is provided before Additional Collector and then Appeal before GRC. SRA has no power to decide about the eligibility. SRA has to allot the tenements as per the eligibility decided by the Competent Authority or by the Appellate Authority.
- (iii) In respect of the recommendations No. 3, in the present scheme rehab component is already completed. Occupation Certificate is issued on 05.01.2018 and as such there is no question of further construction in respect of rehab component.

So far as sale component is concerned the construction is already competed and part OC for 33 floors is already granted on 07.02.2017. However, this Authority has already issued directions to the Developer to stop all the further work, by notice dated 15.05.2018. As such this recommendation has been complied.

- (iv) Recommendation No. 4&5 is for to District Collector, Mumbai Suburban and Police Authority and hence SRA is not in position to make any submission.

6. At the same time, the petitioner informed the Commission that he got allotment letter of Flat No. 708. However, no flat in respect of other family members as recommended by the Commission has been allotted. The Construction activities and sale/purchase on the land is going on and the SRA authorities and District authorities have not taken corrective steps in this regard. The builders and anti-social elements are giving threat to him and his family members. Therefore, Police protection has not been provided. In addition, the ownership issue of the land has not been settled as he has submitted all relevant documents pertaining to this land to the District Revenue authorities.


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

7. During the sitting the Commission, after listening to all stakeholders, observed that alienation of tribal land does not appear to have been done after following due processes. Tribals are illiterate and innocent. Without their knowledge and consent, their land appears to have been taken away. The Commission also observed that in spite of meeting all criteria, the flat has not been handed over to the petitioner with all documents. After hearing the petitioner and officials, the Commission made the following recommendation:

- i. SRA officials informed that flat No. 708 has been handed over to the petitioner alongwith documents. But the petitioner claims that there are 11 eligible tribal people who should be allotted flats in the area. Therefore, this Commission recommended that the eligible ST people should approach the concerned authority viz. SRA/MHA DA with details of this claim alongwith proof for allotment of flat. MHADA/SRA should consider this case and allot more flat as one flat already allotted is not sufficient for 11 persons and their families who lost their land to reside and live.
- ii. The Commission noticed that the Collector, Mumbai sub-urban directed CEO, SRA to stop all construction and sale activities at the site in question till the right of Scheduled Tribes on this land are examined and settled. However, it is reported that construction activities are going on there. Therefore, the Commission recommends that SRA/Collector sub-urban should display a public notice in site informing all concerned to stop all construction activities in the site. A copy of such public notice should be made available to the Commission.
- iii. The petitioners(tribals) keep on pleading to the Commission that all problem started when their land was illegally acquired in the fifties and sixties by various Government agencies. The land transfer was not proper. So there is a need to ascertain this fact that whether the original land transfer was legally tenable or not. Therefore, the Commission advised the petitioner to list some of cases of such alleged illegal land transfer and handover to Collector who will institute a Committee which will go through all records and relevant law/rules and come out with their findings.
- iv. The petitioner who get threats from any elements will approach with written complaint to the concerned DCP Zone-12 for providing police protection and taking other security measures.
- v. An action taken report as to the action taken or proposed to be taken on the above recommendations should be submitted to this Commission by SRA, MHADA and Collector, Mumbai sub-urban within 30 days of receipt of this minutes.

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08.08.09
श्री. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
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नई दिल्ली/New Delhi

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. Shri Hari Krishna Damor, Hon'ble Member
3. Smt. Maya Chintamn Ivnate, Hon'ble Member
4. Shri S.K. Ratho, Joint Secretary
5. Shri P.T. Jameskutty, Consultant
6. Shri Y.K. Bansal, Research Officer
7. Shri H.R. Meena, Sr. Investigator

Officers of Slum Rehabilitation Authority.

1. Shri Sandeep Deshmukh, Secretary
2. Shri Kalyan Pandhare, Deputy Collector

Petitioner

Shri Santosh V Baglaniya