



राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
(भारत के संविधान के अनुच्छेद 338क के अंतर्गत एक संवैधानिक निकाय)
(A Constitutional body under Article 338A of the Constitution of India)

F. No. NCST/DEV-1170/MH/20/2022-ESDW

Dated: 17.07.2023

To,

The Collector and District Magistrate,
District Palghar,
Collectorate Palghar,
Palghar-Boisar Road, Kolgaon,
Palghar-401404, Maharashtra
E-Mail: collector.palghar@maharashtra.gov.in

The Deputy Conservator of Forest,
Jawhar Forest Division,
Opp. Rajiv Gandhi Stadium,
Old Prant Office, At-Post-Jawhar,
Palghar-401603, Maharashtra
E-Mail: dycfjawhar@mahaforest.gov.in

Sub: Minutes of the Sitting taken by Shri Ananta Nayak, Hon'ble Member, NCST, New Delhi on 16.06.2023 at 11:00 AM Representation dated 18.11.2022 received from Shri Vinayak Thalkar, President, Vayam Lokshani Jagar Kendra, At-Jambhul Vihir, PO-Tq- Jawhar, District-Palghar, Maharashtra regarding pending notification of PESA villages, Violation of Gramsabha Powers.


Sir/Madam,

I am directed to enclose herewith a copy of Minutes of the Sitting taken by Shri Ananta Nayak, Hon'ble Member, NCST, New Delhi on 16.06.2023 at 11:00 AM on the above mentioned subject for information and necessary action.

2. You are requested to send the Action Taken Report (ATR) on the recommendations of the Commission **within 30 days** from the date of receiving of the Minutes.

Encl: as Above.

Yours faithfully,


(H.R. Meena)
Research Officer

Copy for information to: -

Shri Vinayak Thalkar,
President,
Vayam Lokshani Jagar Kendra,
At-Jambhul Vihir, PO-Tq- Jawhar,
District-Palghar,
Maharashtra

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National Commission for Scheduled Tribes

No. NCST/DEV-1170/MH/20/2022-ESDW

Minutes of the Sitting held under the Chairmanship of Shri Ananta Nayak, Hon'ble Member, NCST, in the case of Shri Vinayaka Thalkar regarding pending CFR claims and notification of PESA villages with utter violation of Gram Sabha powers by the Authorities.

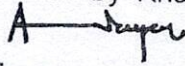
Date of the Sitting: 16.06.2023

Participants in the Sitting: As per Annexure

In the representation dated 18.11.2022, Shri Vinayaka Thalkar, President of Vayam Foundation, Palghar, Maharashtra, submits that Application for CFRR claims for 7 villages have been pending for 5 years. Despite reminders, the DLC and SDLC have been indecisive. Denying forest rights to scheduled tribes is an offense under POA Act sec. 3(1) (g). Additionally, there has been a delay in notifying the formation of Gram Sabha in these 7 villages, violating Maharashtra PESA rules. The Gram Panchayat (GP) and Zilla Parishad (ZP) refuse to accept these villages as Gram Sabha, thereby denying their legitimate rights and funds. Although NREGA allows Gram Sabha to propose works, the Panchayat department rarely accepts proposals from the 47 PESA Gram Sabhas. Gram Panchayat funds should be spent based on Gram Sabha approvals. The TSP 5% PESA fund should be controlled by Gram Sabha Kosh Samiti. Non-disclosure of this information violates the MGP Act 1959 and PESA rules. Furthermore, despite sending several reminders, the Palghar District Administration is not responding to their grievances.

The Commission carefully considered the averments of the petitioner and issued notice dated 18.12.2022 to the Collector and District Magistrate, District Palghar, Maharashtra and Deputy Conservator of forest, Jawhar Forest Division to submit the Action Taken Report ("ATR") within 15 days.

The Deputy Conservator of Forest, Jawhar Forest Division, filed a reply on 13.02.2023 stating that certain Community Forest Resource (CFR) claims have been transmitted to the DLC in Palghar. The remaining claims are under consideration at the SDLC level. One specific claim is made by Khairmal Village, with certain objections



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regarding boundary determination due to unresolved Individual Forest Rights (IFR) claims. Another claim is put forward by Bejpada Village, where boundary fixation visits were hindered by the absence of representatives and objections from neighboring Gram Panchayats. Further it was submitted that investigation is necessary to validate the Bejpada CFR claim and ensure all parties have the opportunity to present their positions. The Forest Department has taken timely actions and will promptly handle the proposals in collaboration with the District Administration, respecting the rights of tribal communities and making decisions carefully.

The District Collector, Palghar also filed a reply on 03.03.2023 stating therein pending community forest rights claims will be reviewed by the District Level Forest Rights Committee after a decision is made on the claims. The Assistant Collector in Jawhar informed that the Gram Panchayat Kogda has opposed the community forest rights claim in Khairmal. Additionally, the Assistant Collector mentioned that the community forest rights claims of Mouje Bejpada Gram Panchayat Ayre will be submitted to the District Level Forest Rights Committee for final approval after receiving feedback from the Forest Department. The notification of PESA villages is pending, and actions will be taken after holding a Gram Sabha in Karhe Talawali. Concerns about non-acceptance of Gramsabha proposals in NAREGA works have been reported, and instructions have been given to include proposed works in the annual action plan. A report regarding the violation of Gramsabha power as per PESA rules was received, and it appears that no violation has occurred based on the investigation. Appropriate documents will be examined for a thorough investigation. The funds held by the Gram Panchayat are spent with the approval of the Gram Sabha, and the TSP 5% PESA funds are managed by the Gram Sabha Fund Committee. The Gram Panchayat's income and expenditure accounts are approved by the Gram Sabha, and the Pesa Gram Sabha Committee has been selected and approved accordingly.

Subsequently, the petitioner filed a rejoinder on 24.03.2023 pointed out the unresolved issues, unaddressed grievances and the unsatisfactory responses from the DM and DCF of Palghar. Various issues related to the response from DCF Jawhar were highlighted, including misleading information, hiding of relevant facts, and deliberate negligence. Discrepancies in the SDLC's handling of the Khairmal and Bejpada CFR claims were also mentioned. The petitioner urged the approval of CFRR claims titles based on traditional boundaries, an investigation into instigation by timber poachers and



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सदस्य/Member

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FD staff, prompt action on pending PESA village notifications, and punitive measures against tainted Gram Panchayats and BDOs. Additionally, it has been emphasized the need to include Gramsabha proposals in NREGA works.

The Commission took serious view of the entire issue and lackadaisical attitude of the Authorities in addressing it. Therefore, the Commission issued Summons dated 08.06.2023 to Shri Govind Marukti Bodke, Collector and District Magistrate, District Palghar, Maharashtra, and Mr. Divakar Niranjana, Deputy Conservator of Forest, Jawhar Forest Division, to appear before the Commission on 16.06.2023 for Sitting.

During the hearing on 16.06.2023, the petitioner submitted that the DCF Jawhar should ensure that the SDLC of Jawhar passes and forwards the CFR claim of Bejpada without further delay, as these claims have been pending for many years. The DLC should approve the CFR claims of Khairmal without any modifications and promptly distribute titles to the villages. If any CFR claim is modified, the DLC should communicate the reasons and provide an opportunity for the claimant villages to appeal. Furthermore, it is submitted that the Gram Panchayat secretaries of GP have forged the Gramsabha proceedings, and copies of these forged proceedings have been submitted to the Commission. Additionally, the monitoring officers, namely the BDOs of Vikramgad and Jawhar, and the CEO of ZP Palghar, have not taken any action and have instead endorsed such fraudulent compliance. The BDO of Vikramgad reportedly stated that he does not recognize PESA and intentionally creates problems with the villagers. The petitioner requests that the GP secretaries, BDOs, and CEO be granted a period of two months to comply with the requirements.

Smt. Sanjita Mahapatra, Sub-Divisional Magistrate, Dahanu, Maharashtra, appearing on behalf of Shri. Govind Maruti Bodke, Collector and District Magistrate, Palghar, Maharashtra, stated that out of the community forest rights (CFR&R) claims pending with the district level forest rights committee (DLC), 5 claims from villages Devichapada, Chinchawadi, Jadhavpada, Songirpada, and Medha have been approved. However, the CFR&R claim of Khairmal has been opposed by Jawhar Gram Panchayat Kogda. Furthermore, regarding the Mouje Bejpada, once the Forest Department submits its feedback on the claims, it will be forwarded to the District Level Forest Rights Committee for final approval, in accordance with the Sub-Divisional Forest Rights Committee's approval. Regarding the pending notification of PESA



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villages, out of the 7 claims, 4 have already been notified. The claims of 2 villages have been forwarded to the Divisional Commissioner, Konkan division for final approval.

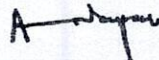
Proposed NREGA works in PESA villages of Jawhar, Mokhada, and Vikramgad talukas have been included in the annual action plan of the MREGS. Instructions have been given to include the works proposed by Gram Sabhas in the annual action plan for the year 2023-2024.

The complaint regarding the violation of Gram Sabha power was investigated. The approved GPDP plan and expenditure details were shared with the concerned Committee and discussed in the Gram Sabha. The complainants were contacted and informed about the actions taken. However, a thorough investigation requires public review and supporting evidence. The report from the Block Development Officer states that funds are spent according to Gram Sabha approval, including TSP 5% PESA funds. Gram Panchayat's income and expenditure accounts are approved by the Gram Sabha, and the PESA Gram Kosh Committee operates with Gram Sabha's approval.

After hearing the grievances of the petitioner alongwith the submissions of the Authorities, the Commission thinks it fit and proper to take disciplinary action against the irresponsible officials from the District Administration for their ignorance and negligence in conducting verifications, as well as their failure to adhere to proper procedures. The Commission has raised significant concerns about the inordinate delay in addressing these issues. Furthermore, the Commission took serious note of the fact that the Gram Panchayat secretaries of GP have forged the Gramsabha proceedings also against monitoring officers have not taken any action against the Gram Panchayat Secretaries who have forged the Gramsabha proceedings instead endorsed the forged compliance. The issues require serious action by the District Collector.

After the hearing, the Commission recommends the followings: -

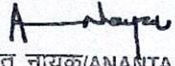
1. The District Collector of Palghar and the Deputy Conservator of Forest of Jawhar Forest Division will ensure that the SDLC of Jawhar passes and forwards the CFR claim of Bejpada without delay within 7 days.
2. The District Collector of Palghar and the Deputy Conservator of Forest of Jawhar Forest Division are required to ensure that DLC will approve the CFR claim of Khairmal without any modifications and issue titles to the respective villages within 15 days.



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3. The District Collector of Palghar and the Deputy Conservator of Forest of Jawhar Forest Division should ensure that in the event that any CFR claim is modified, the DLC should communicate the reasons behind the modifications and provide an opportunity for the claimant villages to appeal.
4. The District Collector of Palghar will co-ordinate with the Divisional Commissioner, Konkan division and ensure that the pending 2notification of PESA villages be approved and shall send the copy of communication to the commission within 30days
5. The District Collector of Palghar has to ensure that appropriate action, in accordance with the state civil service rules, is taken against the monitoring officers who have failed to take any action against the Gram Panchayat secretaries responsible for forging the Gramsabha proceedings within 15 days.
6. The District Collector of Palghar through GP secretaries and the BDOs and the CEO will convene and attend Gramsabha meeting in every notified PESA village quarterly.
7. All the income-expenses account since 2017 till date be presented before each PESA notified Gramsabha and put on a permanent display board, and all works proposed by such Gramsabha be taken up on GP shelf of NREGA submit the action taken report within 60 days.
8. The District Collector of Palghar is required to submit the compliance report every three months for next four quarters with a copy shared with the petitioner

Interim Action Taken Report with compliance of the recommendations to be furnished within 30 days for further perusal of the Commission.


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(ANNEXURE)

F. No. NCST/DEV-1170/MH/20/2022-ESDW

LIST OF PARTICIPANTS:-

National Commission for Scheduled Tribes		
S. No.	Name	Designation
1.	Shri Ananta Nayak	Hon'ble Member
2.	Dr. Jayant Sarode	Director
3.	Shri H.R. Meena	Research Officer
The Collector & District Magistrate, District Palghar, Government of Maharashtra		
S. No.	Name	Designation
1.	Shri S. Mohapatra	SDM, Dahanu
2.	Shri Narayan Diwakar	DCF, Jawhar
3.	Shri Chandra Shekhar	DY. CEO. ZP. Palghar
The Deputy Conservator of Forest. Jawhar Forest Division, Palghar, Maharashtra		
1.	Absent	
Petitioner		
S. No.	Name	Designation
1.	Shri Vinayak Thalkar	Petitioner