



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)

By Speed post

Case File No. RBD/1/2018/STGMH/DELAAL/RU-IV

Dated: 27.03.2019

To,

1. **The Principal Secretary,**
Department of Revenue & Forest,
Government of Maharashtra,
Mantralaya,
Mumbai – 400 001.
2. **The Commissioner,**
Greater Mumbai Municipal Corporation,
Mahapalika Bhawan,
Mahapalika Marg,
Mumbai – 400 001.
3. **The District Collector, &
District Magistrate,**
Mumbai Suburban,
Bandra (E),
Mumbai – 400 052

Sub: 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 Ravindra Babu Dhodi, Borivalli, Mumbai (Maharashtra) regarding land alienation.

Sir,

I am directed 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 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)
Research Officer

Encl: As above

Copy to:

Shri Ravindra Babu Dhodi,
Rahnar Nanu Valsa Chal,
Near Kent Tower Building,
D.P.S. Road, Borivalli (West),
Mumbai – 400 012 (Maharashtra)

Copy to: - SAS, NIC, NCST.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. RBD/1/2018/STGMH/DELAAL/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 RAVINDRA BABU DHODI, AND OTHERS, DISTRICT THANE REGARDING GRABBING OF LAND OF SCHEDULED TRIBES SITUATED AT VALNAI REVENUE VILLAGE, TALUKA AND EX-TALUKA OF DISTRICT THANE BY THE NON-SCHEDULED TRIBES PERSONS WITH THE HELP OF REVENUE OFFICIALS.

Date of sitting: 27.02.2019

List of officers present in sitting is Annexed

The NCST had received a representation from Shri Ravindra Babu Dhodi and others, R/o Nanu Vansha Dhodi Chal, Boriwali (West), Mumbai regarding grabbing of land of Scheduled Tribes situated at Valnai Revenue Village, Taluka and Ex-Taluka of District Thane by the non-scheduled Tribes persons with the help of Revenue officials.

The petitioner Shri Ravindra Babu Dhodi has alleged that his relatives, parents, forefather etc. were residing at Valnai Revenue Village, and Ex-Shastri Taluka, District Thane, presently situated at Malad (West) of Mumbai since 1930 and were cultivating agriculture land measuring 7 Acre till 2012 i.e. year of land grabbing incident. The agriculture land was recorded in the revenue records in favour of their family members. However, the SDM, Thane by its order issued in the year 2012 has deleted petitioner's family member's names from the revenue records and the ST land was snatched and re-allotted in the name of non tribals. Thus the ST land was forcefully grabbed by the non Scheduled Tribes. Further on the said land, construction activities are going on and some residential buildings are being constructed. The petitioners requested the Commission to intervene the matter and re-possession of the land to STs.

2. Earlier the aforesaid matter was taken up for sitting on 13.07.2018 and the Principal Secretary, Revenue, Government of Maharashtra, District Collector, Mumbai Suburban and the Commissioner, Municipal Corporation of Greater Mumbai were called in the Commission. Since, none of the authorities concerned appeared and therefore, the sitting was deferred.

3. Taking into seriousness of the case, the Hon'ble Chairperson, NCST has fixed a sitting on 27.02.2019 in the Commission. In sitting, the Principal Secretary, Revenue, Government of Maharashtra was present. However, other authorities i.e. the District Collector Suburban and the Commissioner, Municipal Corporation of Greater Mumbai did not appear. The Commission has taken a serious view on the non appearance of the authorities concerned. However, in the interest on Scheduled Tribes, the sitting was held on 27.02.2019.

4. During the sitting, the Additional Collector, Mumbai Suburban on behalf of District Collector, Mumbai Suburban appeared. The petitioners were also present.

5. During the sitting, the petitioner submitted before the Commission that their land situated at Valnai Revenue village of Thane District presently situated at Malad (West), Mumbai has been grabbed by the non STs with the help of Revenue officials and constructed residential buildings and commercial buildings on the land without consent of the petitioners. The land also recorded in the revenue record by the non STs. In addition, sale/purchase on the land is going on and the petitioners have been forcefully evicted from the land.

6. The Principal Secretary, Revenue, Maharashtra informed the Commission that the matter purely pertains to deciding the ownership of land and falls under the jurisdiction of District Collector, Mumbai Suburban and the Mumbai Municipal Corporation. The Revenue Department does not have any role in the case.

The Additional Collector, Mumbai Suburban informed the Commission that the land in question was recorded in the name of the forefathers of the petitioner namely late Shri Kowdya Dubala as Protected Tenant in the land bearing S. No. 17/6,17/8,20/16,21/8,23/7,23/10 and 30/5 as per Mutation entry No. 389 dated 17.02.1955. Whereas his name was recorded as Protected Tenant to the S. No. 17/4,21/3 as per Mutation Entry No. 432 dated 18.09.2956. But thereafter name of Kowdya Dubala was deleted from other rights column of 7/12 extract of S. No. 21/3,20/16,23/7,23/10 as per Mutation Entry No. 858 dated 12.07.1973. Applicant, Ravindra Dhodi has not challenged the said Mutation entry till date. However, Ms. Manjula Babu Dhodi and other legal heirs of Kowdya Dubala were recorded in 7/12 extract after death of Kowdya Dubala as per Mutation Entry No. 1128 dated 06.06.2011. The said property bearing S. No. 17/4,17/6 pt, 17/8 pt, 21/8 pt. were transferred in the name of Manjula Babu Dhodi and others vide Mutation Entry No. 1130 dated 11.01.2012 as per the Tahsildar Borivali order No. Tah.Bori/TNC-32(G)/04/2011 dated 04.01.2012. The said order of Tahsildar Borivali was challenged in court of Sub Divisional Officer, Mumbai Suburban by Mr. Motibhai N. Patel and others. The Sub Divisional Officer, Mumbai Suburban after conducting hearing passed an order dated 29.03.2012 thereby allowed the appeal and cancelled the order of Tahsildar Borivali dated 04.01.2012 and Mutation Entry No. 1130 dated 08.01.2012. In the said order he concluded that provisions of B.T&A.L. Act, 1948 are not applicable to the suit land as per notification dated 29.03.1957 and proclamation dated 24.05.1948. Being aggrieved by this order, respondent viz Ravindra Babu Dhodi and other had filed revision application No. TNC/Rev.132/B/2012 in Maharashtra Revenue Tribunal. However, as per order dated 22.08.2012. The Tribunal upheld the decision of Sub Divisional Officer, Mumbai Suburban. Being aggrieved by order of Hon'ble Maharashtra Revenue Tribunal, Manjula Babu Dhodi and others and Ravindra Babu Dhodi filed Writ Petition No. 11337 of 2013 and 4675 of 2014 respectively in Hon'ble High Court. However, Hon'ble High Court vide order dated 18.1.2013 and dated 06.05.2014 dismissed both the petitions. Thus, Hon'ble High Court has already decided the matter in respect of Tenancy rights of the applicants and these order have not been challenged in the Apex Court. Hence those orders are final. However, the petitioner has one more chance to file a Review Petition against the orders of Hon'ble High Court before the Double Bench of Hon'ble High Court. After receipt of the Court's decision the action will be taken accordingly. At present, the construction work on the land is being done. In addition, as per notification dated 29.03.1957, the land in question is reserved for non agriculture land industrial development.

7. The Commission has also received a report from the Municipal Corporation of Greater Mumbai vide its letter dated 27.02.2019 wherein it has been informed that as per the sanction of Govt. of Maharashtra vide notification No. TPS/4674/7550/UD5 dated 17.07.1995 come into force on 03.10.1995. Borivali Town Planning Scheme No. III, Final Plot No. 143, TPS III/Borivali is reserved for 'Municipal Dispensary & Maternity Home' & its ownership vest with MCGM. Now as per sanctioned D.P. 2034, the said plot is reserved for 'Municipal Market with Vending Zone'.

As per the award sanctioned Borivali Town Planning Scheme No. III available with this office, the name of Shri Nanu Vansa Dhodi has been reflected as 'Agr. Tenant' in respect of the F.P. No. 142 A to 142 D of TPS III/Borivali. This has no relevance with the F.P. No. 143.

Shri Ravindra Babu Dhodi stated that he is occupying plot bearing F.P. No. 142 A to 142 D. However, as per the remarks received from Ex. Engineer (Building proposal) Office

under No. Dy. ChE/BP/7374/WSII/P&R dated 21.03.2018, ownership of F.P. No. 143, TPS III/Borivali vest with MCGM. Further it is stated that in F.P. No. 142 A to 142 D development permission for construction of building has already been issued u/no. ChE/A-0114/BP/WS/AR & ChE/A-0115/BP/WS/AR. At present, building named Kent Tower is existing on F.P. No. 142 A to 142 D.

8. The case was discussed in detail. The Commission observed that the land in question was in cultivation with the petitioner's family since 1930 to 2012 and petitioner's family name was also recorded in revenue record under 7/12 extract as protected tenants. As per the Mumbai Tenancy Act, the claim of petitioner on the land in question seems to be justified as the petitioner's family was declared as protected tenant. In addition, the reports of the District Collector, Mumbai Suburban and Municipal Corporation of Greater Mumbai submitted before Commission are contradictory as the Mumbai Municipal Corporation claimed that the land was reserved for 'Municipal Dispensary & Maternity Home' & its ownership vest with MCGM and whereas in the District Revenue record, the land was recorded as protected tenants in the favour of petitioner's family. No prior notice for acquisition of land or eviction of Scheduled Tribe families were issued by the authority concerned. Thus it appears to be the case of atrocity and harassment with the Scheduled Tribes. The Commission therefore, recommends that:

- The construction activities on the disputed land should immediately be stopped and the District Collector, Mumbai Suburban should ensure that no sale/purchase and construction activities should be made as the matter is under consideration before the Commission.
- The District Collector, Mumbai Suburban and Mumbai Municipal Corporation may submit a comprehensive report about whether the land belongs to Municipal Corporation or land recorded in District Revenue records as protected tenants in favour of the petitioner.
- Police protection should be provided to the petitioner's family as there is threat from the builder's side.
- The case will also be taken up for next sitting and the District Collector, Mumbai Suburban and the Commissioner, Municipal Corporation of Greater Mumbai be asked to remain present.
- An action taken report on the Commission's recommendations should be submitted before the Commission within 30 days on the receipt of the proceedings.

Handwritten signature and date: 26.3.019

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

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. RBD/1/2018/STGMH/DELAAL/RU-IV

List of participants

NCST

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Miss Anusuiya Uikey, Hon'ble Vice-Chairperson
3. Shri Hari Krishna Damor, Hon'ble Member
4. Smt. Maya Chintamn Ivnate, 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 Sudhir Atram, PS to Hon'ble Member (MCI)
10. Shri H.R. Meena, Sr. Investigator

Officers of Government of Maharashtra

1. Shri Manu Kumar Srivastava, Additional Chief Secretary, Revenue
2. Miss Vaidehi Ranade, Additional Collector, Mumbai Suburban

Petitioner

Shri Ravindra Babu Dhodi.