



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)

SPEED POST

File No. DSM/14/2018/STGMH/DEOTH/RU-IV

Dated: 13.08.2019

To,

1. **The Chief Secretary,**  
Government of Maharashtra,  
Mantralaya,  
Mumbai – 400 032.
2. **The Director General of Police,**  
Government of Maharashtra,  
Mumbai.
3. **The Commissioner,**  
Vasai-Virar City Municipal,  
Bajarward, Virar (East),  
Taluka – Vasai, District – Palghar,  
Mumbai – 401 305 (Maharashtra).
4. **The District Collector,**  
District – Palghar,  
Chintu Pada Road,  
Palghar,  
Maharashtra – 401 404.
5. **The Superintendent of Police,**  
District – Palghar,  
Maharashtra – 401 404

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 Devji Shankar Mahali, District -Palghar, Maharashtra regarding alienation of tribal land by the non Scheduled Tribes

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 15 days from the receipt of the letter for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

*(Signature)*  
(Y.K. Bansal)  
Research Officer

Encl: As above

Copy to:

Shri Devji Shankar Mahali,  
R/o House NO. 1123,  
Mahali Niwas, Rambai Ambedkar Nagar,  
Near Dena Bank, Sativali, Vasai (West),  
Taluka – Vasai, District – Palghar,  
Maharashtra – 401 208.

जारी किया  
ISSUED

Copy to: - SAS, NIC, NCST.

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**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

Case File No. DSM/14/2018/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 MATTER OF SHRI DEVJI SHANKAR MAHALI, VASAI (WEST), TALUKA – VASA, DISTRICT – PALGHAR, MAHARASHTRA REGARDING ALIENATION OF TRIBAL LAND BY THE NON SCHEDULED TRIBES.**

Date of Sitting: 15.07.2019


List of officers present in sitting is Annexed.

The petitioner Shri Devji Shankar Mahali, Vasai (West), Taluka – Vasa, District – Palghar, Maharashtra has represented before the Commissions that his ancestor brought the land measuring 2 acre 20 guntas at Village- Sativli Taluka -Bassai District - Thane under section 32G of Bombay Tenancy Agriculture land Act, 1948. All purchase price was paid as per order of Agricultural Land Tribunal, Vasai District – Palghar to the landlord. Thus, his ancestors were absolute owner of the said land. In the meantime, taking the advantage of his ancestors illiterateness, forcefully alienated the tribal land by the non tribals and executed and registered Lease Deed for the period of 30 years with the help of District Administration. The non STs has not taken permission from the concerned Government authority to construct/development on the land and accordingly constructed illegal structure. After expiry of Lease Deed of the land in the year 2009 no extension of the Lease Deed was taken. The tribal families have objected the above illegal activities before the District administration and no action was taken. The petitioner has requested that an action may be taken under relevant provisions of Atrocity Act, 1989 against the accused non STs. In addition, it was requested to take following action.

- (a) Return possession of their land from accused non STs at earliest after proper measurement of land by Taluka Inspector of Land Record, Vasai, District Palghar.
- (b) Demolish rubble stone wall constructed on Government approve public road which is in existence from era of British Government rule;
- (c) Provide police protection to their family members and his friend Shri Sunil Sumah Kaushik.
- (d) Implement Commission's recommendations made during the enquiry conducted by NCST team on 14-15 January, 2019 into the land matters.

2. Earlier the Commission took up this matter and subsequently a sitting was held on 26.11.2018 in the Commission. The Commission had recommended that:

- (a) It was informed during the sitting that the land in question was mutated in the name of tribal petitioners as agricultural land. Then, how the land use of this land has been changed to private forest. The Revenue department has to give the clarification.
- (b) When there is no provision to lease private agricultural land of tribals how the department gave permission to lease the land for 30 years.
- (c) How the forest department notified the said land as private forest without knowledge of Revenue department? Forest department to provide all records relating to it.
- (d) The Revenue department should take necessary action to demolish all constructions in the disputed land.

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



(e) The Commission will make a spot visit after 13.12.2018 and look into the matter again.

3. Thereafter, on the direction of Hon'ble Chairperson, NCST a team from officers of the NCST conducted on the spot inquiry into the matter on 14-15 January, 2019 and made following recommendations.


- The illegal encroachment and constructions made on the land bearing No. 41/2 by the non STs should immediately be demolished by the Revenue Department.
- The 7 days' notice for vacating of land issued by the Deputy Conservator of Forest, Thane vide its notice dated 09.01.2019 should be complied with in to and in case, failing which necessary action for demolition of all illegal encroachment/construction in the said land should be taken against the accused persons.
- The Sub Divisional Officer (SDO), Vasai will decide the title change and ownership issue of the land within 3 months. The SDO, Vasai will also ensure that no injustice should be meted out against the petitioner and all the petitioner's documents should be taken into consideration.
- Police protection should be provided to the ST family and their property.
- If any legal hurdle comes in between demolition of illegal construction, then the District Collector, Palghar should immediate take necessary corrective action.
- An action taken report on the Commission's recommendations should be submitted before the Commission.

4. Since, there was no action taken by the District Collector, Palghar, therefore a sitting was fixed on 15.07.2019 in the Commission.

5. In sitting, IGP (PCR), Maharashtra, District Collector & DM, Palghar, SDM, Vasai, Municipal Commissioner, Vasai-Virar City Municipal Corporation, Deputy Municipal Commissioner, Vasai-Virar City Municipal Corporation and SDPO, Vasai appeared. The petitioners were also present.

6. During the sitting, the petitioner informed the Commission that despite Commission's recommendations, illegal constructions on the land has not demolished, no police action was taken against the accused non ST persons under Atrocity Act and ownership matter of the land has not been decided. At the same time, the District Collector, Palghar apprised the action taken on the Commission's recommendations. Regarding the Commission's recommendations for demolition of illegal construction, the matter is stayed by the Hon'ble High Court of Mumbai on the Writ Petition filed by the opposite party. However, the District Administration will take corrective steps to vacate the stay by pleading the case by a Senior Govt. Counsel and hopefully it will be vacated. Regarding ownership matter, the matter is pending before the Court of SDM, Vasai as the petitioner has sought sometime to submit some more documents in the matter. The case will be decided shortly. Police protection has also been provided to the petitioner. However, if the petitioner has threat or physical loss to him or his family members, then he can make complaint for police protection and the same will be provided. The encroachment on the adjoining disputed land and public street by the accused person will be cleared.

7. During the sitting, the matter was discussed in detail. The Commission observed that this is a clear case of alienation of land of tribals by non- tribals. The leasing of land by the tribals to the non- tribals was not legal as it did not get the approval of District Collector.


  
डॉ. नन्द कुमार साय/Dr. Nand Kumar Sai  
अध्यक्ष/Chairperson  
राष्ट्रीय अनुसूचित जनजाति आयोग  
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However, once the lease expired, the land should have gone back to the tribal who are the real owner of the land. After detailed discussion the Commission made the following recommendations:

- i. The District Collector, Palghar is advised to direct the concerned SDO, Vasai to decide the ownership issue of the land and as claimed by the tribals that it belonged to them, if it is established that the land is their, immediate action should be taken to restore the land maximum with in one month in the name of tribals who are said to be the real owners.
- ii. During the discussion, it transpired that the land was notified as private forest. This was done without knowledge of Revenue officials. It appears that such notification was wrongly done. This needs to be rectified. Therefore, the revenue department should take up the matter with Forest department for cancellation of such notification.
- iii. It has been reported that there is a number of un-authorized construction in the said land. Such construction is still going on. The revenue authority viz. SDO incharge of the place should ensure that all the unauthorised construction should be demolished immediately as per law after getting the stay vacated from the Hon'ble Court.
- iv. Superintendent of Police, Palghar should provide the required protection to the authorities while carrying out demolition.
- v. Superintendent of the Police, Palghar should ensure that Police protection is provided to the petitioner and his friend Shri Sunil Suman Kaushik free of cost.
- vi. The petitioners are advised to be regularly to be in touch with the concerned Local officials on a regular basis.
- vii. An action taken report as to the action taken so far and what action are proposed to be taken on the above recommendation of the Commission should be made available to the Commission within 15 days of receipt of this minutes.

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08.08.19  
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



List of participants

NCST

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Shri H.K. Damor, Hon'ble Member
3. Shri A.K. Singh, Secretary
4. Shri S.K. Ratho, Joint Secretary
5. Shri P.T. Jameskutty, Deputy Secretary
6. Shri Y.K. Bansal, Research Officer
7. Shri H.R. Meena, Sr. Investigator

Government of Maharashtra

1. Dr. Prashant Narnaware, District Collector & DM, District Palghar
2. Shri Quaiser Khalit, Inspector General (PCR), Maharashtra
3. Shri B.G. Pawar, Municipal Commissioner, Vasai-Virar
4. Shri Dipak Kshirsagar, SDM, Vasai
5. Shri Kishor Gawas, Deputy Commissioner, Vasai-Virar MNC
6. Shri Ashwini Patil, SDPO, Vasai

Petitioner

1. Shri Devji Shankar Mahali
2. Shri Surya Pratap Singh