



भारत सरकार
Government of India
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

(A Constitutional Body under Article 338A of the Constitution of India)

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

16.04.2018

To,

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| 1. The Principal Secretary,
Tribal Development Department,
Government of Maharashtra,
Mantralaya, Mumbai – 400 032. | 2. The Principal Secretary (Revenue)
Revenue and Forest Department,
Government of Maharashtra,
Mantralaya, Mumbai- 400032. |
| 3. The Vice President & CEO,
MHADA,
Grihanirman Bhawan,
Kalanagar,
Bandra (East), Mumbai – 400 051. | 4. The Chief Executive Officer,
Slum Rehabilitation Authority,
Administrative Building,
Anant Kanekar Marg, Bandra (East)
Mumbai- 400051 |
| 5. The District Collector,
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetna College,
Government Colony,
Bandra (East), Mumbai - 400 051 | |

Sub: Representation dated 17.09.2017 received from Shri Rajiv Ranjan, S/o Shri Rajendra Prasad, R/o A/2102, Bay View Opp. Urban Tadka Seven Bunglow, Restaurant Versova, Andheri (West) Mumbai- 400061 regarding alienation of ST property and law applicable to the land.

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 15.03.2018 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, expeditiously.

Yours faithfully,

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

Encl: As above

Copy to:

o/c

Shri Rajiv Ranjan,
S/o Shri Rajendra Prasad, R/o A/2102, Bay View Opp.
Urban Tadka Seven Bunglow, Restaurant Versova, Andheri (West),
Mumbai – 400 061.

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ISSUED

NATIONAL COMMISSION FOR SCHEDULED TRIBES

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

PROCEEDINGS OF SITTING HELD ON 15.03.2018 AT 02.00 P.M CHAIRED BY SHRI NAND KUMAR SAI, HON'BLE CHAIRPERSON, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) REGARDING LAND ALIENATION OF SHRI SANTOSH VISHNU BAGLANIYA (DHODI) AND OTHERS, R/O VITTHAL NAGAR CO-OPERATIVE HOUSING SOCIETY, DEVI PADA, BORIVALI (EAST), MUMBAI.

Date of Sitting: 15.03.2018

List of officers present in sitting is Annexed.

A sitting was held under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on 04.01.2018 at 12.00 Noon with Principal Secretary (Revenue), Revenue and Forest Department, Government of Maharashtra, Chief Officer, Maharashtra Housing and Area Development Authority (MHADA) and District Collector, Mumbai Suburban District.

2. After discussion in the Sitting, NCST had recommended the State Government of Maharashtra and other concerned authorities to take following steps for protection and safeguarding the interest of the Scheduled Tribes applicants:

- (i) The family of the applicant may be allotted a flat on permanent basis in the Vitthal Co-operative Housing Society as per his eligibility in the list prepared by MHADA and SRA. (action: CEO, SRA).
- (ii) Chief Officer, MHADA to submit a detailed chronological report to the Commission regarding acquisition of land of the applicants, purpose of acquisition, reasons for not utilising the land by the Government, claim of adverse possession of the applicant and reasons of transferring the land to SRA. Copies of relevant records/ orders also be enclosed in support.
- (iii) Chief Executive Officer, Slum Rehabilitation Authority, Mumbai to submit a detailed report to the Commission that in what circumstances the applicant family was deprived of a flat in Vitthal Co-operative Housing Society despite the name

of Shri Santosh Vishnu Baglaniya (Dhodi) appearing in the list of persons eligible for allotment of flat and the reason and justification of transfer of the land in question from MHADA to SRA and then a part of it to private builders. It should also clarify that if the acquired plot no. 209, 210, 211 and 213 occupied by the applicants were not declared as a slum, how the Vitthal Co-operative Housing Society was formed and the area was developed by SRA for construction of flats? (action: CEO, SRA). Copies of relevant records/ orders also be enclosed in support.

- (iv) Protection should be provided to the applicant 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. (action: District Collector, Mumbai Sub-urban/ DCP zone- 12, Mumbai).
- (v) 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. (action: District Collector, Mumbai Sub-urban/ DCP zone- 12, Mumbai).
- (vi) All Construction and sale activities by MHADA, SRA or private builders at the site in question may be immediately stopped till the decision on rights of Scheduled Tribe applicant on this land are thoroughly examined by the Commission through the agencies involved in the matter. (action: Principal Secretary, Revenue, Revenue and Forest Department, Government of Maharashtra).
3. Proceedings of Sitting was sent to all concerned on 01.03.2018 and also notice for next Sitting on 15.03.2018 to the Principal Secretary, Revenue Department, Govt. of Maharashtra, Vice President & CEO, MHADA, Chief Executive Officer, SRA and Collector, Mumbai Suburban and representationist Shri Rajiv Ranjan, A/2 102, Bay View Opp. Urban Tadka

Seven Bungalow, Restaurant Versova, Andheri (West), Mumbai for reviewing the progress and further discussions in the matter.

4. Principal Secretary, Revenue Department, Govt. of Maharashtra could not attend due to Budget Session of Maharashtra State Legislature and Vice-President & CEO, MHADA also could not attend due to Assembly Session and deputed Chief Officer, MHADA.

5. Initiating discussion of the Sitting held on 15.03.2018, Hon'ble Chairperson asked the Chief Executive Officer, SRA, Chief Officer of MHADA and Collector, Mumbai Suburban District to inform on action taken by them and the progress in the matter.

6. The Chief Executive Officer, SRA informed that Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 has been enacted. The same was amended in the year 1997 and Slum Rehabilitation Authority (SRA) created to fulfil requirements and achieve aim of the policy. The SRA works under Chairmanship of Hon'ble Chief Minister, Govt. of Maharashtra. Criteria and procedure for declaration of Slum Area was also informed. In respect of affected person, it was informed that Late Vishnu Govind Bagalnia was father of the present complainant. He was one of the eligible slum dwellers. He was declared eligible at Sr. No. 278 of Annexure-II for the purpose of residential tenement. After the death of Vishnu Govind Bagalnia, his widow Manjula Alias Laxmi Vishnu Bagalnia has been allotted tenement No. 708 in building 1, Wing B. Presently, she is occupying the said tenements.

Mrs. Manjula alias Laxmi Vishnu Bagalnia had filed SC suit No. 1573/2008 before the Hon'ble City Civil Court, Dindoshi. She had raised the issue as to legality of acquisition of land by MHADA. The said suit has been dismissed by Order dated 29.06.2009 and the said suit has not been further contested by the mother of present complainant. The present complainant Santosh Vishnu Bagalnia (Dhodi) had also filed a complaint before the Hon'ble High Power Committee Constituted by Government of Maharashtra bearing Complaint No. 38/2010.

The matter has been duly considered on merits by the designated High Power Committee which is a quasi-judicial forum and acquisition is held to be legal and proper and the complaint of Shri Santosh Vishnu Bagalnia has been dismissed by the High Power Committee vide its Order dated 12.11.2010. This order is in force and has not been challenged before any judicial forum.

So far as land acquired by MHADA, slum scheme implemented thereon it cannot be called in question, even if land belonging to the members of the Tribal Community and if the slum is existing there on scheme can be implemented. Law to that effect has been settle by Hon'ble High Court Mumbai in Writ Petition No. 2270/2014 decided on 28.07.2016.

7. Chief Officer, MHADA endorses the information furnished by SRA and informed that the MHADA has issued annexure-II (list of eligible slum dwellers) year 2004 and 2008. On this land the revised annexure-II was issued by then Chief Officer M.H.A.D.B vide No. 1653 dated 27.03.2008 being a Census slum. According to this Annexure-II, Shri Vishnu Govind Bagalnia was declared eligible tenant vide Sl. No. 278. As above plot on which the hutments were Censused slum, the letter of Intent (LOI) was issued to Architect, Developer and concerned society by SRA vide letter No. SRA/ENG/969/RC/MHL/LOI dated 16.04.2005 and revised letter of Intent vide letter No. SRA/ENG/969/RC/MHL/LOI dated 05.01.2018.

As per the letter of Sub Divisional Officer/BSD dated 10.01.2011 Shri Vishnu Govind Bagalnia (Dhodi) was offered one tenement in the building No. 1-B/708 as a rehab tenement. Same tenement is considered as permanent accommodation given to Shri Dhodi against existing the structure No. 278. As asked by the NCST in Sitting dated 04.01.2018 for chronological events, MHADA had also informed the chronological events in the matter.

8. The Collector, Suburban Mumbai District informed that the Principal Secretary, Revenue Department, Govt. of Maharashtra unable to attend the Sitting since Budget Session of Maharashtra Legislative Assembly is currently going and deputed him to present the facts before the Commission.

In regard to protection of the affected family and their representatives, the Collector informed that the Deputy Commissioner of Police, Zone – 12, Mumbai had been asked to provide the protection to affected family and family of representationist vide letter No. C/Karya-2 Aay/Kavi-406/2017 dated 12.03.2018.


Regarding death of Kum. Nehal Kanu Kharvi, Collector informed that report was called from DCP, Zone-12 Mumbai. In the report, it had been mentioned that that Kanu Kharvi alleged committed suicide due to her personal economic and educational problems. Copy of the FIR, Post-mortem report and enquiry report (which in Marathi language) provided to the Commission. In regard to stop the construction and sale activities by MHADA, SRA or private

builders at the site, satisfactory reply was not given by the Collector, Suburban District, Mumbai.

9. The Hon'ble Chairperson asked the petitioner about the information given by the officers of Govt. of Maharashtra in the Sitting. The petitioner denied the facts submitted by the officers of Govt. of Maharashtra and reiterated his earlier facts presented before the NCST during the Sitting on 04.01.2018. He informed that the affected persons are still having no permanent right on the house No 1B/708 as mentioned by MHADA and SRA and requested for justice. On further query by the Commission from the SRA, it was informed by the officer of SRA that he has no power to settle the matter.

10 The Commission recommends that:

- (1) 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,
- (2) SRA should re-examine the matter, as there were some more eligible tenements in the family of Shri Vishnu Govind Bagalnia.
- (3) Chronological events in relation to land in question should be prepared by Revenue Department, Govt. of Maharashtra and submitted to the Commission.
- (4) 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.
- (5) Action taken report in the matter may be intimated within two months from the date of receipt of the proceedings of the Sitting to the NCST, for further action.


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

List of Participants

NCST

1. Shri Nand Kumar Sai, Chairperson
2. Miss. Anusuiya Uikey, Vice-Chairperson
3. Shri H.K. Damor, Member
4. Smt. M.C. Ivate, Member
5. Shri Raghav Chandra, Secretary,
6. Shri S.K.Ratho, Joint Secretary
7. Shri D.S. Kumbhare, Under Secretary
8. Shri R.K. Dubey, Assistant Director
9. Shri R.S. Misra, Senior Investigator

Revenue Department, Government of Maharashtra

NIL

Tribal Development Department, Govt. of Maharashtra

Shri Sunil Y. Patil

MHADA, Mumbai

Shri Subhash Lakhe, Chief Officer/MB

Slum Rehabilitation Authority, Mumbai

Shri. Deepak Kapoor, CEO

District Suburban, Mumbai.

Shri Deependra Singh Kushwah, Collector

Petitioners

1. Shri Rajiv Ranjan (Representative)
2. Shri Atul Kumar -do-