



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. CBD/18/2018/STGMH/DEOTH/RU-IV

Dated: 04.09.2019

To,

1. **The Commissioner,**
Municipal Corporation of Greater Mumbai,
Mahapalika Marg No. 1 Fort
Opp. C.S.T. Railway Station
Mumbai- 400 001
(Maharashtra).
2. **The Chief Executive Officer,**
Slum Rehabilitation Authority,
Administrative Building,
Anant Kanekar Marg, Bandra (East)
Mumbai- 400051 (Maharashtra).
3. **The District Collector,**
Collectorate Office
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetna College, Government Colony,
Bandra (East), Mumbai - 400 051
4. **The Superintendent of Land Records,**
Mumbai Suburban District,
10th Floor, Administrative Building,
Near Chetna College,
Government Colony,
Bandra (East), Mumbai - 400 051

Sub: 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 Chandrakant Babu Dhodhi (Patel), Borivali (East), Mumbai regarding grabbing of the tribal land for the purpose of wrongful gain which is against the law of land and holding enquiry for taking action against various authorities.

Sir/Madam,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 15.07.2019 under the Chairmanship of Shri Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject for necessary action.

It is therefore, requested that a compliance report on the Commission's recommendations may be sent 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 Chandrakant Babu Dhodi (Patel),
Babu Narsi Dodhi Chawl,
Kasturba Cross Road No.8,
Off. M.G. Road, Borivali (East),
Mumbai - 400 066 (Maharashtra).

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. CBD/18/2018/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 CASE OF SHRI CHANDRAKANT BABU DHODI (PATEL), BORIVALI, MUMBAI, MAHARASHTRA REGARDING ALIENATION OF ST LAND FOR THE PURPOSE OF WRONGFUL GAIN WHICH IS AGAINST THE LAW OF LAND AND HOLDING ENQUIRY FOR TAKING STERN ACTION AGAINST VARIOUS AUTHORITIES.

Date of sitting: 15.07.2019

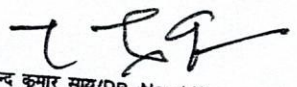
List of officers present in sitting is Annexed

The petitioner Shri Chandrakant Babu Dhodhi (Patel) has represented before the Commission regarding grabbing the tribal land for the purpose of wrongful gain which is against the law of land and requesting for holding enquiry for taking stern action against various authorities i.e. Municipal Corporation of Greater Mumbai, Revenue Department, Maharashtra, Collector, Mumbai Suburban, Slum Rehabilitation Authority, Builders and Developers and Members of Registered societies for grabbing tribal land measuring about 3 acre bearing survey No. 6 and 6A corresponding C.T.S. No. 31, 31D and 32, Final Plot No. 22, 22A, 22B, 22C, T.P.S. No. II of Village Kanheri, Taluka – Borivali, Mumbai Western Suburban District.

It has been alleged that the land was in physical possession with Scheduled Tribe occupant as protected tenant since 1939 and was also under cultivation with Scheduled Tribe petitioners. The mutation entries in Revenue records for said properties was also made in favour of the ST petitioners. However, the said land was acquired by the Municipal Corporation without legal permission from the District Collector. The tribal families have been evicted. Thereafter, the land was handover to the private builders to construct the Residential buildings which is against of law. The petitioner has requested the Commission to issue order to stop work in respect of illegal and unauthorised construction on the ST land. The petitioner has further alleged that despite Commission's recommendations made during sitting held on 27.02.2019, no action was taken by the authority concerned and the grievances is still pending.

2. Earlier the Commission took up this matter and subsequently a sitting was held on 27.02.2019 in the Commission. The Commission had recommended that:

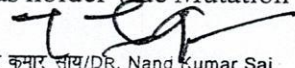
- The construction activities on the land in question should immediately be stopped and the District Collector, Mumbai Suburban and the Commissioner, Municipal Corporation of Greater Mumbai should ensure that no sale/purchase and construction activities should be made as the matter is under consideration before the Commission.
- The District Collector, Mumbai Suburban and District Superintendent of Land Records, Mumbai Suburban may submit a comprehensive report about the status of the land with all records to the Commission.


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

- The case will also be taken up for next sitting and the District Collector, Mumbai Suburban, District Superintendent of Land Records, 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.
- The Additional Collector, Mumbai Suburban District and the District Superintendent of land Records, Mumbai Suburban vide their letter dated 24.06.2019 sent an action taken report to the Commission.
- An action taken report on the Commission's recommendations should be submitted before the Commission within 30 days on the receipt of the proceedings.

3. In compliance with the Commission's recommendations, the O/o the District Collector, Mumbai Suburban District and O/o the District Superintendent of Land Records, Mumbai Suburban District submitted an action taken report wherein the following action taken has been informed that:

- (a) As per records, the name of predecessor of Shri Chandrakant Babu Dhodi (Patel) were never recorded as tenant/protected tenant in 7/12 extract on or before/or also later on of Tillers Day i.e. 01.04.1957 and the Appellant predecessor never attempted to prove their tenancy rights before the appropriate authority i.e. Tahsildar as per provisions of B.T. & A.L. Act, 1948. Further there is neither mention of section 36 or 36A on the concerned Records of rights (7/12 extract) nor the said name is reflected in the City Survey Enquiry (now in torn condition) conducted on or about 1965-66 by the Enquiry Officer. As per records of rights only in Pik Pahani (cultivation) remarks, from 1970 till 1987, the names of Mansi Ramji Dhodhi and Babu Narsi Dhodhi appeared, however from 1982 till 1987 it appears that there was no Agricultural activities carried out and the property was converted to non-agricultural use as well as part of the land was constructed by one Shri Shamshuddin Mohammed Ramdhari Pan Yadav.
- (b) As far as survey No. 6 and 6A are concerned, the name of predecessor of Shri Chandrakant Babu Dhodhi (Patel) are not recorded as Kul/protected tenant. The concerned Mutation Entry No. 1 from village Form No. 6 evidencing the said fact is already submitted before this Hon'ble authority.
- (c) As per records maintained by City Survey Officer, Survey No. 6 and 6A are now corresponding CTS No. 31/D and 31/F and final plot No. 22B and 22C. The original property card of city survey number 31/D admeasuring 8889.9 sq. Mtrs was opened in 1966 and the names of smt. Mansibai Ramji Dhodhi and Shri Babu Narsi Dhodhi were entered in other rights column on 06.03.1972. Further the name of M/s parag Construction was entered in year 1986 as Holder/Owner. The said property was subject matter of Urban Land Ceiling and acquired by Government of Maharashtra under the provisions of Urban Land Ceiling Act to the extent of 7475.00 sq.mtrs.
- (d) The property bearing City Survey Number 31/F is concerned, the name of Babu Narsi Dhodhi was entered in other rights column on 06.03.1972, however as the entire property admeasuring 30.00 sq. mtrs. Is declared under the previsions of Urban Land Ceiling Act, the name of Government of Maharashtra is entered as holder vide Mutation


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Entry No. 175 dated 10.10.2975 and the name of Babu Narsi Dhodi was deleted on 10.01.2007 by entering the name of Government of Maharashtra.


- (e) The properties bearing City Survey Numbers 31/D and 31/F corresponding to Final plots No. 22B and 22C of Town planning Scheme of Village – Kanheri, Taluka – Borivali, Mumbai Suburban District are subject matter of Town Planning Scheme.
- (f) The final plots bearing 22b and 22C are reserves for Health Centre and Garden Reservation and Municipal Corporation is shown as owner in Form No. 1 issued by concerned Department of Town Planning.
- (g) In the circumstances and as stated that the Land Records Department being the authorities responsible to maintain and update the records, are bound to act upon the B Form issued by Town Planning authority in view of section 88 of MRTP Act, 1966. Further the Revenue authority has no jurisdiction to alienate the B from issued by concerned authority and it is bound to effect the entries as per Form No.1 issued by concerned Department of Town Planning.
- (h) Hence, the applicant, if aggrieved by deletion of his predecessors name from property register cards, he may approach the concerned Town Planning and Urban Development Department of State Govt. who can consider his claim.

4. The Municipal Corporation of Greater Mumbai has reported that original plot No. 22 in the Town Planning Scheme has been sub-divided as plot No. 22A, 22B & 22C of Town Planning Scheme-II, Borivali. The said Town Planning Scheme is finalized by the Arbitrator and compensation has been awarded and paid to the Owners as per records. They state that in the records of Town Planning Scheme (Scheme Book & Plan) the land under reference is not Adivasi Tribal Land as represented by the Applicant. On the said land under reference Slum Rehabilitation Scheme is declared for which Slum Rehabilitation Authority is the Special Planning Authority. Hence, as regards the construction activity carried under the said S R Scheme, the said Special Planning Authority is the sanctioning authority and responsible for any action to be under taken under Maharashtra Slum Rehabilitation (Improvements, Clearance & Redevelopment) Act, 1971.

5. Since, the report of the District authority was found unsatisfactory and therefore a sitting was fixed on 15.07.2019 to discuss action taken on the Commission's recommendations with the Commissioner of Municipal Corporation of Greater Mumbai, District Collector, Mumbai Suburban, Superintendent of Land Records, Mumbai Suburban District and the Chief Executive Officer, Slum Rehabilitation Authority.

6. In sitting, the Secretary, SRA and Deputy Collector, SRA (on behalf of CEO, SRA, SDO, Mumbai (West) (on behalf of District Collector, Mumbai Suburban), Superintendent of Land Records, Mumbai Suburban and Executive Engineer (on behalf of Commissioner, Mumbai Municipal Corporation) appeared. The petitioners were also present.

7. The matter was again discussed in detail during the sitting. After listening to various State agencies including the petitioner, the Commission observed that the tribal land was taken over by the Government agencies. The commission felt that there is merit in the claim of the


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Petitioner that their land being agricultural land which was owned and possessed by Dhodi family and they were protected tenant and deemed owner under Bombay Tenancy and Agriculture Land Act. 1948. It is reported that on the claim of false report of the Talathi, mutations entries were made and as a result, dispossessing tribals of their land. Subsequently, the land was transferred to various Government agencies and private builders. In the light of the above findings, and also after listening to the petitioners, their grievances, the Commission made the following recommendations: -

- i) The Commission feels that the whole problem that the tribals are facing now is on account of the fact that the land which were in their possession was mutated in the Government records as that of revenue land belonging to Government and subsequently transferred to various Government agencies which later on constructed a number of buildings and other infrastructure facilities. The tribals are claiming that they were protected tenants and deemed owner. The transfer of their land is not as per law and therefore illegal. Hence, the Commission recommends to the Principal Secretary, Revenue, Government of Maharashtra that a Committee may be set up under the Chairmanship of Collector Mumbai sub-urban District, Bandra who will examine carefully whether the land alienation of tribals under reference is as per law and procedure and come up with a report within 3 months.
- ii) The Commission observed that although the Commission advised 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, it is reported that construction activities are going on there. Therefore, the Commission recommends that 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 petitioner who get threats from any elements will approach with written complaint to the concerned DCP for providing police protection and taking other security measures.
- iv) 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.

T R S
03.09.19

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अध्यक्ष/Chairperson
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List of participants

NCST

1. Shri Nand Kumar Sai, Hon'ble Chairperson (In chair)
2. Shri Hari Krishna Damor, Hon'ble Member
3. Smt. Maya Chintamn Ivate, 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 Government of Maharashtra

1. Shri Sanjay Nirbhavane, Superintendent of Land Records, Mumbai Suburban.
2. Shri Umesh Birari, SDO Mumbai (West).
3. Shri Sajay U. Kamat, Executive Engineer (DP), Municipal Corporation of Greater Mumbai.
4. Shri Dhananjay Shankar Dashputra, Executive Engineer (DP), Municipal Corporation of Greater Mumbai.
5. Shri Sandeep Deshmukh, Secretary, Slum Rehabilitation Authority.
6. Shri Kalyan Pandhare, Deputy Collector, slum Rehabilitation Authority.

Petitioner

Shri Chandrakant Babu Dhobi (Patel)