



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)

File No. VLS/36/2017/STGMH/DEOTH/RU-IV

Dated: 18.06.2018

To,

1. The Director General of Police,
Maharashtra State Police Headquarters,
Old Council Hall,
Shaheed Bhagat Singh Marg,
Mumbai – 400 001
(Maharashtra).
2. The District Collector and Chairman,
District level Vigilance &
Monitory Committee
Under Atrocity Act,
District – Thane,
Maharashtra.
3. The Superintendent of Police (Rural),
District – Thane,
Maharashtra.

Sub: Proceedings of the sitting taken by Hon'ble Member Smt. Maya Chintamn Ivnate, National Commission for Scheduled Tribes (NCST) on 23.05.2018 in the matter of Shri Vithal Laxman Shid, Waghalepada, Post-Varap, Taluka-Kalyan, District – Thane (Maharashtra) regarding capturing of land of Scheduled Tribes person by illegal manner.

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held under the Chairmanship of Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes on 23.05.2018 on the above mentioned subject for perusal.

It is requested that action taken report in the matter may please be sent to the Commission within 30 days positively for placing the same before the Hon'ble Member, NCST.

Yours faithfully,

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

4810-13
 19/6/18

ISSUED

Copy to:-

1. Shri Vithal Laxman Shid,
Res: Wagherapada
Post – Varap, Taluka – Kalyan,
District – Thane
(Maharashtra).
2. Shri Vishal Kumar Mathura Gupta,
House No. 187, Gram Mharal Pada,
Post – Varap, Taluka – Kalyan,
District – Thane
(Maharashtra).

NATIONAL COMMISSION FOR SCHEDULED TRIBES

VLS/36/2017/STGMH/DEOTH/RU-IV

Proceedings of the Sitting held on 23.05.2018 before Smt Maya Chintamn Ivnate, Hon'ble Member, NCST in the case of Shri Vithal Laxman Shid, Village Waghalepada, Tehsil Kalyan, District Thane(Maharashtra) regarding capturing of land of Scheduled Tribe person by illegal manner and inaction by the Police Authority.

Date of sitting: 23.05.2018

List of the officers and petitioners present: (Annex - I)

The District Collector, Thane and the Superintendent of Police, Thane were called. But both of them didn't appear. However, on behalf of these officers, the SDO, Kalyan and the SDPO(DSP), Kalyan appeared without the authority letter. The Commission has taken it very seriously and directed the officers present to submit authority letter to the Commission.

2. During the sitting the power of Attorney holder from the petitioner side, Shri Vishal Kumar Gupta has submitted the grievances of grabbing of land belonging to Scheduled Tribe person by illegal manner. The petitioner has reported that Shri Vithal Laxman Shid, a ST person was allotted & notified agriculture land. The said land was illegally grabbed and transferred by members of non- Scheduled Tribe person with the help of Revenue officials. In this regard, he had registered an FIR no. 1-125/2013 under Atrocity Act in Kalyan Taluka Police Station, Titwala on 04.06.2013. But the Police Authority didn't take any action against the accused person and the Police personnel didn't inquire the matter under Atrocity Act. The petitioner has requested the Commission to direct the Police Authority to Investigate the case under the Atrocity Act and take action against the accused person.



Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
Govt. of India, New Delhi

3. The SDPO, Kalyan has submitted a detailed report in the case. He was stated that the land in question i.e survey no.47/1, measuring 5 Hector 31 R was originally owned by Shri Vishnu Laxman Phadke, Kalyan, Mumbai and the said land was given for cultivation to the petitioner's grandfather late Shri Mahadu Nago Shid by him. Thereafter Shri Mahadu Nago Shid had filed Petition no. 70-B-99/1997 to Tehsildar and Farming Tribunal, Kalyan for transfer of land in his name. The Tehsildar, Kalyan vide his order dated 05.09.2000 has held that the name of petitioner's grandfather Shri Nago Shid should added as Kul on the 7/12 abstract. This was given effect as per entry no. 1512 and 1610. After the death of original owner Shri Phadke, on 13.04.2002, his legal heirs filed appeal against the Tehsildar, Kalyan's order dated 05.09.2000 before the SDM Court, Thane Division and the appeal was allowed vide SDM's order dated 24.02.2003. This resulted in making entries in the 7/12 abstracts in favor of legal heirs of Shri Fadke. The said order was then challenged by Shri Mahadu Nago Shid (grandfather of petitioner) before the Hon'ble Maharashtra Revenue Tribunal, Mumbai bearing case no. TRC/Reve./7/B/2003. The appeal was turned down by the Hon'ble Tribunal vide order dated 02.04.2009. Thereafter, the Land was sold out by the legal heirs of Late. Shri Fadke to another non ST persons and registered the land documents in their names.

Being aggrieved this, the G.P.A of grandfather of the petitioner, Shri Vishal Kumar Gupta had filled a Civil writ petition no. 2521 of 2011 before the Hon'ble High Court, Mumbai against the tendency order passed by the Hon'ble Maharashtra Revenue Tribunal, Mumbai and the case sub-judice in the Court. In addition, another writ petitions were filed by the petitioner and the opposition parties.

Presently, 17 Civil Litigations are filed in the case. The petitioner has also filed a criminal case under Atrocity Act at Kalyan Police Station in 2013. During the investigation of the case it is gathered that the DSP, Murbad Division, inquired the case and has sent final report dated 21.05.2015 for granting "C" summary to the Hon'ble J.M.F.C. Court, Kalyan. In the investigation, no evidence was found against accused persons named in the FIR and no Case of Atrocity Act was found applicable. Presently it is sub-judice.



Smt. Maya Chintarn Ivate
Member
National Commission for Scheduled Tribes
Govt. of India, New Delhi

4. The case was discussed in detail. The Commission has observed that the Police Authority did not inquire the case in proper way. The statement and defence documents of the petitioner were not considered at the time of investigation and submitted one sided closer report to the Hon'ble Court. Hence there is a need to reinvestigate the case for the sake of natural justice.

5. The Commission therefore recommends that the Director General of Police, Maharashtra may review the case through constitution of a Committee of senior level Police Officers comprising one Member of Scheduled Tribe community to re-investigate the case under provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, 1989 keeping in view of the FIR lodged by the petitioner in 2013 so that natural justice be provided to him.

6. An action taken report in the case be also be submitted to the Commission within 30 days.



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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Annexure

(File No. VLS/36/2017/STGMH/DEOTH/RU-IV)

List of participants

NCST

1. Smt. Maya Chintamn Ivnate, Hon'ble Member (In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Y.K. Bansal, Research Officer
4. Shri H.R Meena, Sr. Investigator
5. Shri Sudhir Atram, PS to Hon'ble Member

District Collector and S.P., District Thane, Maharashtra

1. Shri More Rajendra, SDPO (DYSP)
2. Shri. Prasad Ukarde, SDO, Kalyan, Department of Collector, Thane.

Petitioner

Shri Ramji M. Maheshwari, Ulhas Nagar.