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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. AKD/2/2019/STGMH/DELAAL/RU-IV

Dated: 13.06.2019

To,

1. **The Principal Secretary,**  
**Revenue Department,**  
Government of Maharashtra,  
Mantralaya,  
Mumbai – 400 032  
(Maharashtra)
2. **The Commissioner,**  
**Municipal Corporation of Greater**  
**Mumbai,**  
Annex Building,  
Mahapalika Marg, No. 1, Fort, opposite  
CST Railway Station, Mumbai-400001,  
(Maharashtra).
3. **The District Collector,**  
**Mumbai Suburban District,**  
Bandra, Mumbai (Maharashtra)

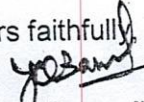
**Sub: Proceedings of the Sitting taken by Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 28.05.2019 in the case of Shri Anand Kantilal Dhodi, Om Kalyani Building CHS Ltd., Dahisar (W), Mumbai regarding alienation of ST land by non STs**

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held on 28.05.2019 under the Chairmanship of Smt. Maya Chintamn Ivate, Hon'ble Member, National Commission for Scheduled Tribes on the above mentioned subject.

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

Yours faithfully,

  
(Y.K. Bansal)  
Research Officer

Copy to:

Shri Anand Kantilal Dhodi,  
Kantilal Compound,  
M.G. Road,  
Near Daulat Nagar Fatak Borivali (E)  
Mumbai: 400066,  
Maharashtra.

6th Floor, 'B' Wing, Lok Nayak Bhawan, Khan Market, New Delhi - 110005. Ph. 24615012 FAX: 24624628, 24657474

Toll Free: 1800117777

Website: <http://ncst.nic.in>

Copy to: - SAS, NIC, NCST,

20/06/19

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

Case File No. AKD/2/2019/STGMH/DELAAL/RU-IV

**PROCEEDINGS OF SITTING HELD ON 28.05.2019 CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI ANAND KANTILAL DHODHI, MUMBAI REGARDING ALIENATION OF ST LAND BY NON STS.**

Date of Sitting: 28.05.2019


List of officers present in sitting is Annexed.

The petitioner Shri Anand Kantilal Dhodhi, Mumbai vide his representation has submitted the grievances regarding alienation of ST land by non STs.

He further alleged that the petitioner's grandfathers were the owner and occupier of the agriculture lands bearing survey No. 89(1) area measuring about 12 guntas and 89 (2) areas measuring about 4 guntas corresponding to CTS nos. 8,8/1,9 of Kanheri Village and 2770 of village Eksar (now corresponding to reconstituted final plot No. 7B, Kanheri Village as per town planning scheme to, Borivali (E) situated at Taluka Borivali (E), Mumbai since 1929. The land was grabbed by one M/s Parag Constructions and partners. The original owner of the land was late Shri Budhya Ukedia alias Dhodi (grandfather of the petitioner) since 1929 and was conducting agriculture activities. He was a tenant and then became a deemed owner under provisions of Salsatte state (land and Revenue exemption) Abolition Act, 1951. After death of petitioner's grandfather on 10.10.1959 he became land owners of the land. The land was also recorded under revenue records as 7/12 extract declaring them as owner. Mutation entry was also effected on 14.10.1960. The land was under possession with the petitioner till 2011. Thereafter, the land was grabbed by Municipal Corporation of Greater Mumbai and auctioned without informing the petitioner. No legal notice was issued to the petitioners predecessors for acquisition of the land. The petitioners have also filed Court cases and obtained favourable orders. However, the land was not restored in favour of the petitioners.

2. As per procedure, NCST notice sought a report from the Principal Secretary, Revenue, Government of Maharashtra, the Commissioner, Municipal Corporation of Greater Mumbai and District Collector, Mumbai Sub-Urban District, Bandra, Mumbai on 12.03.2019. Since no report was received from the authority concerned and therefore, a sitting was fixed on 28.05.2019 before the Hon'ble Member, NCST, Smt. Maya Chintamn Ivnate.

3. As per schedule, the sitting was held on 28.05.2019. It was observed that Principal Secretary, Revenue, Government of Maharashtra, the Commissioner, Municipal Corporation of Greater Mumbai and District Collector, Mumbai Sub-Urban District, Bandra, Mumbai were called for sitting. But none of them appeared. The Commission has taken it very seriously. However, on behalf of the District Collector, Mumbai Suburban, the Sub Divisional Officer, Western Suburban, Mumbai Suburban District and the Tehsildar, Borivali appeared before the Commission. The petitioner was also present.

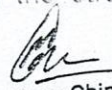
  
Smt. Maya Chintamn Ivnate  
Member  
National Commission for Scheduled Tribes  
Govt. of India  
New Delhi

4. During the sitting, the SDM, Western Suburban submitted a report in the matter. As per report and submission made by the officer concerned, it is reported that after going through 7/12 extract of the land bearing S. No. 89 (1) admeasuring 11 gunthas 12 anna of village Kanehri, shows the name of Budhya Ukhadu, is recorded in the kabjedars column. However, in the other rights column, it is recorded that the said land is acquired for bus-station. In the 7/12 extract of S. No. 89(2), names of Velkar family is recorded in the kabjedar column. Also, the same entry regarding acquisition of land for bus-station is recorded in other right column.

Whereas, the Property cards bearing CTS No. 8, 8(1) and 9 property holder in M/s Parag construction. However, in property card bearing CTS No. 8 name of Kanti Budhya Dhodi is recorded as Imala Malak and the property card of CTS No. 2770 of village Eksar is in the name of Government of Maharashtra. The survey No. 89 (1) and 89 (2) are the part of Town Planning Scheme (TPS) II of Borivali. The draft TPS scheme was prepared in 1962 which is finalized in year 1996. Under this scheme the suit properties claimed by the applicant are the part of final plot No. 7B admeasuring 6430.87 sq.mts. In the form No. 1 of TPS scheme names of the Moreshwar Wamanrao Velkar and Smt. Sulochana Pandurang Velkar are recorded as owners. The said property was auctioned by the Court Receiver, pursuant to the Consent terms filed in suit No. 42 /1972 dated 27.06.1978 in the Hon'ble High Court, Bombay. National Export being the highest bidder purchased the said properties. However, National Export agreed to sale these properties to M/s Parag Construction by the agreement dated 04.01.1982. Accordingly, Sale Certificate was issued by the office of Prothonotary and Sr. Master, High Court Bombay on 30.04.1983. The disputed properties were included in the Sale Certificate. In the said property out of total land a plot admeasuring 7030 sqm. was reserved for the BEST Bus Station. In year 1963 BEST undertaking initiated the acquisition proceedings for the said plot of land.

With respect to the said properties, litigation between occupants in the said properties and BEST was pending in the Hon'ble Supreme Court. During pendency of SLP there was compromise between M/s Parag Construction and BEST undertaking to develop the said plot with provisions of Bus Station in the year 1991. Applicant was served notice dated 21<sup>st</sup> March, 2009 calling upon to vacate the structure in suit property by the MCGM Town Planning Department. To which, applicant has replied on 20.09.2009. Again a notice was issued to applicant on 28<sup>th</sup> July, 2009 under section 90 of MRTP Act, calling upon applicant to remove and pull down the structure occupied by him. He replied to it on 26.08.2009. He had also filed suit No. 1163/2010 in the Hon'ble City Civil Court at Dindoshi. He then took out a notice of Motion 1185/2011 in aforesaid suit for Ad-interim relief, which was refused on 7<sup>th</sup> May, 2010 and the Notice of Motion was dismissed.

Applicant then filed I.A. No. 1-3 and 4-6 of 2010 in Civil Appeal No. 5623,5625 of 1985 on 18<sup>th</sup> May, 2010 before Hon'ble Supreme Court of India for directions to follow the due process of law before his eviction from the suit property and to consider his claim of ownership. The Hon'ble Supreme Court of India via its order dated 9<sup>th</sup> August, 2010 dismissed, the said I.A.s filed by applicant with liberty to the applicant to avail appropriate legal remedy. Following which Municipal Corporation of Greater Bombay demolished the structure/farmhouse of

  
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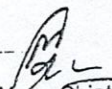
applicant situated on the aforesaid property. After going through all the contents, they found that at present the applicant has no title in the suit land. There is a Suit No. 221/2016 which is pending in Hon'ble High Court of Bombay with regard to the title of Suit property. The applicant has not been able to prove his title in the suit property and suit No. 221/2016 for title claim is still pending in Hon'ble High Court of Bombay. Applicants predecessors never took objections to the title of Velkar family as decided in the TP scheme. Later transactions/transfers are on the basis of Hon'ble Courts order.

The suit properties are included in Town Planning Scheme –II of Borivali of which draft Scheme was published in 1962 and finalized in 1996. The applicant has neither proved that these properties were utilized by the applicant for agriculture purpose prior to 1974, nor any objections were raised by the predecessors of the applicant during the finalization of Town Planning Scheme. Therefore, the provisions of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 are not attracted to the suit properties. The application filed by applicant for restoration of the land under section 4 of the Maharashtra Restoration Lands to Scheduled Tribes Act, 1974 has already been rejected vide office's order dated 04.10.2018. This court has already rejected the application of Anand Kantilal Dhodi for restoration of the land under Section 4 of the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974. Order of this court has not been challenged.

5. After considering all the facts submitted by the petitioner and authority concerned, the Commission observed that the land in question was in possession with the ST petitioners from 1929 to 2011. Thereafter, the land was grabbed by the non STs with the help of Revenue officials and Municipal Corporation of Greater Mumbai. The construction activities on the land is going on without deciding the claim of land's title and the petitioners are also getting threat warning from the builder/developer side. The Commission, therefore recommends as follows.

- The District Collector, Mumbai Suburban and Municipal Corporation, Mumbai will review the entire case keeping in view the petitioner's documents and will take corrective measures for restoration of the land in favour of petitioners.
- The District authority and Municipal Corporation of Greater Mumbai will ensure that construction activities on the land in question be stopped with immediate effect as the matter is under consideration before the Commission.
- Police protection should be provided to the ST petitioner and his family members. In this regard the petitioner is also advised to submit a complaint to the local Police Station as well the Commission for Police protection.
- An action taken report on the Commission's recommendations should be submitted to the NCST within 30 days from the receipt of this proceedings.

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

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. AKD/2/2019/STGMH/DELAAL/RU-IV

List of participants

NCST

1. Smt. Maya Chintamn Ivrate(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 Member

Officers of Government of Maharashtra

1. Shri Umesh Birari, SDO, Mumbai Western Suburban
2. Shri Vinod Dhotre, Tahsildar, Borivali

Petitioner

Shri Anand Kantilal Dhodhi