



राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

(भारत के संविधान के अनुच्छेद 338क के अंतर्गत एक संवैधानिक निकाय)
(A Constitutional body under Article 338A of the Constitution of India)

F. No. NCST/DEV-1223/OR/28/2022-ESDW

Dated: 28.06.2023

To,

The District Collector and Magistrate,
District – Kandhamal,
Collectorate, Phulbani,
Kandhamal-762001
Odisha
E-Mail: dm-kandhamal@nic.in

Sub: Minutes of the Sitting taken by Shri Ananta Nayak, Hon'ble Member, NCST, New Delhi on 30.05.2023 at 03:30 PM in the State Guest House, Bhubaneswar, Odisha regarding Representation dated nil received from Shri Bispati Kanhar, S/o Late Shri Akadsi Kanhar, Village-Gadargaon, PO- Chahali, PS - Chakapad District-Kandhamal, Odisha regarding alienating the tribal lands to the general people.

Sir/Madam,

I am directed to enclose herewith a copy of Minutes of the Sitting taken by Shri Ananta Nayak, Hon'ble Member, NCST, New Delhi on 30.05.2023 at 03:30 PM in the State Guest House, Bhubaneswar, Odisha on the above mentioned subject for information and necessary action.

2. You are directed to send the Action Taken Report (ATR) on the recommendations of the Commission **within 15 days** from the date of receiving of the Minutes.

Encl: as Above.

Yours faithfully,

(H.R. Meena)
Research Officer

Copy for information to: -

Shri Bispati Kanhar,
S/o Late Shri Akadsi Kanhar,
Village-Gadargaon, PO- Chahali,
PS – Chakapad,
District-Kandhamal,
Odisha

✓ 1. NIC Cell for upload in NCST
Website.

National Commission for Scheduled Tribes

F. No. NCST/DEV-1223/OR/28/2022-ESDW

Minutes of the sitting held under the Chairmanship of Shri Ananta Nayak, Hon'ble Member, NCST, in the case of Shri Bispati Kanhar regarding his Land rights and attempt of eviction from his Land without settling his rights.

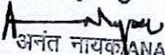
Date of the sitting: 30.05.2023

Participants in the sitting: As per Annexure

Shri Bispati Kanhar, through his representation dated 19.12.2022, submits that his father cultivated certain land for generations. However, when the petitioner migrated to Assam for work, he entrusted the land to "Bhaga Chasi" for cultivation. The petitioner explains that during the period of land rights settlement in the Kandhamal District (1975-1980), they were not present in their native area as they had migrated to Assam as migrant workers. Hence, they couldn't apply for the Record of Rights (ROR). Upon their return, the Tehsildar prohibited them from cultivating the land, claiming it belonged to the government. They were served an eviction notice. The petitioner has been consistently paying land taxes, but the amount fluctuates significantly from 100 to 1000/- each year, without any valid explanation. Moreover, the authorities are unjustly demanding additional money, causing distress and harassment. His case could be considered under applicable various schemes meant for migrant workers as well.

The Commission issued notice dated 18.01.2023 to the Collector and District Magistrate, Kandhamal district, Odisha to submit the Action Taken Report ("ATR") within 15 days.

In response, the District Collector of Kandhamal in his reply stated that the complainant, Bisipati Kanhar, did not own the disputed plots during the previous settlement. These plots were recorded as government lands by the Settlement Authority, and the Collector lacks the power to change the Record of Rights (RoR) prepared by them. Moreover, these plots cannot be settled under the Forest Rights Act, 2005, as they are not part of the jungle kissam. The complainant's son, Rimang


अनंत नायक ANANTA NAYAK
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
NATIONAL COMMISSION FOR SCHEDULED TRIBES
भारत सरकार Government of India

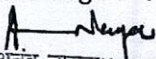
Mariju, has encroached upon these plots, with one plot already settled in his favor. The complainant owns other lands and surpasses the government's income limit to fall in the zone of consideration for land settlement. The complainant is ineligible under the Orissa Prevention of Land Encroachment Act, 1972, Orissa Govt. Land Settlement Act, 1962, and Orissa Govt. Land Settlement Rules, 1983. No evidence supports claims of threats or false cases by Chakapad Tahasil staff or the transfer of tribal lands to non-tribal individuals. Therefore, the applicant's representation lacks merit.

The Commission issued Summons dated 12.04.2023 to Shri Ashish Ishwar Patil, Collector and District Magistrate, Kandhamal to appear before the Commission on 28.04.2023. However, he failed to appear. The Commission issued warning notice and also sought justification for seeking exemption.

Subsequently, the Commission issued Summons dated 19.05.2023 to Shri Ashish Ishwar Patil, Collector and District Magistrate, Kandhamal to appear before the Commission at the State GuestHouse, Bhubaneshwar on 30.05.2023 at 03:30 PM

During the hearing on 30.05.2023, the petitioner submitted that his father cultivated their ancestral land for generations, but when they migrated to Assam, they entrusted it to Bhaga Chasi. During the land rights settlement in Kandhamal District (1975-1980), they couldn't apply for the Record of Rights (ROR) as they were away. Now, the tashildar claims the land belongs to the government, serving them an eviction notice. The petitioner pays inconsistent land taxes, ranging from 100 to 10,000/- annually, without explanation, while authorities demand additional money, causing distress. Furthermore, the district administration has issued titles to people in the general category and other classes who already possess land. Surprisingly, despite having possession of the land for generations, the petitioner's rights have not been settled.

Shri Ashish Ishwar Patil, Collector and District Magistrate, Kandhamal submitted that complainant, Bisipati Kanhar, did not own the disputed plots during the previous settlement. These plots were recorded as government lands and the character of the Land cannot be changed by the Collector. The plots are not eligible for settlement under the Forest Rights Act, 2005, and the complainant's son has


अनंत नायक/ANANTA NAYAK
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
NATIONAL COMMISSION FOR SCHEDULED TRIBES
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

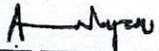
encroached upon them. The complainant's income exceeds the government's limit for land settlement. There is no evidence of threats or illegal transfer of tribal lands.

The Commission observed that the petitioner was unable to apply for the Record of Rights (ROR) as they were migrated to Assam and emphasized that they should not be evicted without being given a chance for reconsideration. Moreover, considering that many neighboring residents have already been granted land rights and the district administration has issued titles to individuals in non-tribal persons who already own land, it is imperative that the petitioner is a tribal person but neglected. His case should not be disregarded in this matter. As per the Notification No RDM-LRGEA-STATUT-0007-2018-6913 dated 22nd February, 2023 issued by Government of Odisha the income of the petitioner does not exceed the ceiling fixed for deciding the eligibility to get the Land.

After hearing both the sides, the Commission recommends the followings: -

1. The District Collector will verify the grounds on which individuals from non-tribals who already own land has received titles, and ensure that the petitioner is not neglected, discriminated or disregarded in this matter. The fact of similarly situated persons who have occupied/possessed Lands in the nearby areas. The District Collector will verify the same. In the light of the above mentioned facts and circumstances the petitioner's possession of the land for generations has to be settled in letter and spirit.
2. The District Collector will examine the inconsistency in the land taxes, which range from 100 to 10,000/- annually already charged to the petitioner.
3. The District Collector will ensure that no eviction takes place until the matter is completely settled.
4. The District Collector will ensure that legal assistance is provided by the Legal Services Authority.
5. The District Collector will ensure that the Tehsildar provides all necessary assistance to the petitioner for preparing the required documents for taking appropriate legal recourse and in filing the petition in the settlement court.

The District Collector will submit an Action Taken Report with compliance of the Recommendations within 15 days.


अनंत नायक/ANANTA NAYAK
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
NATIONAL COMMISSION FOR SCHEDULED TRIBES

(ANNEXURE)

F. No. NCST/DEV-1223/OR/28/2022-ESDW

LIST OF PARTICIPANTS: -

National Commission for Scheduled Tribes		
S. No.	Name	Designation
1.	Shri Ananta Nayak	Hon'ble Member
2.	Dr. Jayant Sarode	Director
3.	Shri Radhakanta Tripathy	Special Rapporteur
4.	Shri D.K. Palai	UDC
5.	Shri Avinash Mattur	Legal Consultant
The District Collector and Magistrate, District – Kandhamal, Odisha		
S. No.	Name	Designation
1.	Shri Ashish Ishwar Patil	Collector
Petitioner		
S. No.	Name	Designation
1.	Shri Rimong	Petitioner