



सत्यमेव जयते

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/SER-994/MCIT/25/2023-SSW

Dated: 16.08.2024

To,

1. Shri Robert J Ravi A
Chairman Cum Managing Director,
Bharat Sanchar Nigam Ltd,
Bharat Sanchar Bhavan, Janpath,
New Delhi- 110001
Email Id: cmdbsnl@bsnl.co.in
Tel. No: 011-23372424
2. Smt. Mukta Arya
District Magistrate & Collector,
District-Hooghly,
West Bengal -712101
Email Id: dm-hoog@nic.in
Tel. No: 03326802044

Sub:- Harassment of ST employee of BSNL by the administration of District Hooghly- A representation dated 21.07.2023 of President, Akhil Bhartiya Gond Adivasi Sangh, New Delhi.

महोदय,

I am directed to enclose herewith a copy of the minutes of sitting held under the Chairmanship of Shri N. Chakma, Hon'ble Member, NCST on 07.08.2024 at 12:30 PM in the National Commission for Scheduled Tribes, Lok Nayak Bhawan, Khan Market, New Delhi 110003 on the above mentioned subject, for information.

It is requested that the action taken/ to be taken in the matter may be intimated to NCST within stipulated time from receipt of the letter for placing it before the Hon'ble Commission.

Yours faithfully,

(आर.एस.मिश्र / R.S. Misra)

अनुसंधान अधिकारी / Research Officer

Tel:- 011-24641640

Copy to :-

1. Shri Chandra Bhan Prasad Gond -
President, Akhil Bhartiya Gond Adivasi Sangh,
Baishali Para, Pashcim Salepur,
District South 24- Pargana-(West Bengal),
Mobile No:9088288006
2. Shri Pintu Kumar Gond S/o Bhagirath Gond
Bandel Survey, View Park, Po- Bandel,
District- Hooghly (West Bengal) -712123

Copy for information

1. PS to Hon'ble Member (Shri N. Chakma), NCST.
2. NIC, NCST for uploading on the website of the Commission.

National Commission for Scheduled Tribes

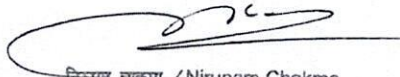
Minutes of the Hearing held under the Chairmanship of Shri Nirupam Chakma, Hon'ble Member, National Commission for Scheduled Tribes at Lok Nayak Bhawan, New Delhi regarding repeated verification of caste certificate – a representation dated 21.07.2023 by Shri Pintu Kumar Gond, Junior Accounts Officer, Bharat Sanchar Nigam Limited (BSNL).

File: NCST/SER-994/MCIT/25/2023-SSW
Date of the Sitting: 07.08.2024, 12:30 PM
Participants in the Sitting: As per Annexure

A representation dated 21.07.2023 was submitted by President, Akhil Bhartiya Gond Adivasi Sangh, District – South 24 Pargana alleging that the SDO, Sadar, Hooghly has issued a Show-Cause notice to Shri Pintu Kumar Gond, JAO, BSNL, WBTC for verification of genuineness of his ST certificate. In his complaint letter, the petitioner contended that the ST certificate was already verified by the competent authorities several times and found to be authentic, and hence another verification is impermissible. He alleges that he is being deliberately harassed by the SDO and the administration with ulterior motives due to his status as a member of the Scheduled Tribe. In the letter, it has been mentioned that the earlier SDO, Sadar, Hooghly has clarified that the ST certificate issued in 2011 in favor of Shri Pintu Kumar Gond is genuine. This has been clarified in the letter dated 01.06.2022 of DGM (HR & Admin), BSNL, CNTx (East), Kolkata to PGM (HR / Admn.), Office of CGM, BSNL, WBTC, Red Cross Place, Kolkata.

NCST vide notice dated 10.08.2023 had referred the matter to CMD, BSNL and, District Magistrate & Collector, Hooghly (West Bengal) for furnishing the facts and comments within 15 days of the receipt of the notice. Office of DM, Hooghly vide Memo no. 1598 BCW dated 25.08.2023 has furnished the facts and comments and stated that the Show-Cause was issued to the petitioner (Sh. Pintu Kumar Gond) under procedure of West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994. The reply was forwarded to the petitioner for information on 14.09.2023. Shri Pintu Kumar Gond vide rejoinder letter dated 05.10.2023 has refuted the facts submitted by DM, Hooghly and requested for justice. He has also enclosed a copy of the communication between SDO, Hooghly and him. This was forwarded to DM & Collector, Hooghly for further comments.

The District Magistrate, Hooghly vide Memo no. 208/BCW/HUG dated 30.01.2024 has furnished the facts and comments and stated the issue was examined by the SDO, Sadar, Hooghly, and an order was passed on 12.09.2023. A copy of the order sheet was enclosed with the reply. The SDO, Sadar, Hooghly in its order dt. 12.09.2023 has described the facts regarding the status of the community certificate of Sh. Pintu Kumar Gond and informed that the concerned person does not belong to 'Gond' Scheduled Tribe. Hence, he should not be identified as a member of 'Gond' tribe. The Caste certificate was therefore cancelled and the concerned person was to be informed accordingly. A copy of the letter was collected by the petitioner on 14.03.2024. The matter was referred to District Magistrate, Hooghly on 21.03.2024 as there was no communication from O/o of DM, Hooghly.

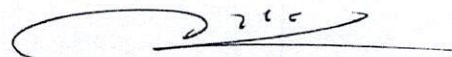

निरुपम चाकमा / Nirupam Chakma
सदस्य / Member
राष्ट्रीय अनुसूचित जनजाति आयोग

Hence, the Commission decided to discuss the issue with CMD, BSNL and District Magistrate and Collector, Distt. Hooghly, West Bengal and, the petitioner on 07.08.2024. Accordingly, a Hearing Notice was issued on 23.07.2024 to all concerned.

The DM, Hooghly, vide letter dt. 30.07.2024 has furnished a copy of its earlier communication submitted to NCST. The BSNL vide letter dated 02.08.2024 has furnished the facts and comments including copy of the correspondence made between BSNL, District Magistrate - Hooghly and the petitioner. The CMD, BSNL vide letter dated 01.08.2024 received on email on 05.08.2024 sought exemption in personal appearance and deputed concerned officers from BSNL HQ and West Bengal Telecom Circle, to attend the Sitting. DM, Hooghly vide letter dated 02.08.2024 has sought exemption and deputed PO and DWO, BCW & TD, Hooghly to attend the Hearing.

When the matter was taken up on 07.08.2024, the Commission reviewed the documents on record. The records indicate that the petitioner's Scheduled Tribe (ST) certificate has undergone multiple verifications as follows:

1. In accordance with DOPT order No. 36022/1/2007-Estt.(Res) dated 20.03.2007, BSNL requested the SDO, O/o the DM, Hooghly, vide letter number WBTC/CO/RT/DR JAO/CON/2017 dated 07.05.2019, to certify the veracity of the certificate produced by Pintu Kumar Gond. Vide communication dated 21.06.2019, the authority replied that although the records were not available, the signature evident on the certificate belonged to the erstwhile SDO, and other details such as print pattern/font size and date of issue appeared authentic. After further communication with BSNL, vide communication dated 15.01.2020, the SDO office confirmed that the 'OBC' certificate bearing number 304/Bew/Hug/CT/nag dated 17.05.2011 had been actually issued from the SDO office and was genuine. It appears that a clerical mistake resulted in the category 'OBC' being used instead of 'ST' in the verification report. This discrepancy was considered one of the inconsistencies/confusions for BSNL to request subsequent verifications.
2. As per the letter dated 01.06.2022 of DGM (HR & Admin), BSNL, CNTx (East), Kolkata to PGM (HR / Admn.), Office of CGM, BSNL, WBTC, Red Cross Place, Kolkata, it is evident that a second verification was requested vide letter dated 23.11.2021 wherein the DGM/Vig/CNTxE after examining the issue has sent a letter to the State Vigilance Commission with copies to (i) Principal Secretary, Backward Classes Welfare (BCW), (ii) DM, Hooghly, (iii) ADM, Hooghly, and (iv) SDO, Sadar, Hooghly, highlighting the ambiguities and anomalies found in previous verification letters from the office of the SDO. The letter requested confirmation on whether the caste certificate in question was genuine. In response, SDO Sadar Hooghly, vide letter no. HGLY-64026(12)/1/2021-SDO SADAR(HGLY) dated 13.12.2021, clearly stated that the ST Certificate of Pintu Kumar Gond bearing number 304/BCW/HUG/CT/MOG dated 17.05.2011 is genuine, with copies sent to ADM, Hooghly, DGM/Vig/CNTxE, and Assistant Commissioner for Reservation and Ex Officio Assistant Secretary, BCW Department. Further, based on the letter from DGM/Vig/CNTxE, BSNL dated 23.11.2021, the matter was also investigated


निरुपम चाकमा / Nirupam Chakma
सदस्य / Member
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

by the Anti-Corruption Unit, Hooghly. Based on the report from the anti-corruption inspector vide memo number 23/V/con dated 07.02.2022, the Secretary, State Vigilance Commission, Govt of West Bengal, vide memo number 23/V/O Cell/PCR(NAR)-79/2022, dated 29.02.2022, also validated the report of SDO/Sadar/Hooghly. And, further, the Project Officer cum District Welfare Officer, Backward Classes Welfare & Tribal Development, O/o DM Hooghly, vide memo number 1154-BCW/Hug dated 21.12.2021 also reiterated that the said certificate is authentic. Based on these above records/documents provided by the concerned departments, the allegation of a fake certificate in respect of Pintu Kumar Gond was dropped by the Vigilance Unit/CNTxE, and the same was informed to the PGM (HR & Admin) vide letter dated 18.12.2021. However, a letter issued by CVO, BSNL vide no. 30-1/2018-SC ST/fake Certificate/21-22 dated 18.12.2021, advised that an FIR against the delinquent official should be lodged if his certificate is established to be fake. These facts have been communicated by DGM (HR & Admin), BSNL, CNTx (East), Kolkata to PGM (HR /Admn.), Office of CGM, BSNL, WBTC vide letter dated 01.06.2022.


3. Vide letter number WBTC/CO/RT/DR JAO/CON/2017, dated 23.03.2023, to the DM, Hooghly, the Deputy General Manager (HR/A) Office of the CGM, BSNL, WBTC requested verification of the Caste Certificate submitted by the petitioner based on which the inquiry proceedings were initiated, and the applicant was served with a show-cause notice by the SDO, Sadar, Hooghly dated 01.06.2023 against which he has preferred this petition before the Commission.

During the hearing on 07.08.2024, attention was drawn to the letter dated 01.06.2022 of DGM (HR & Admin), BSNL, CNTx (East), Kolkata to PGM (HR/Admn.), Office of CGM, BSNL, WBTC, Red Cross Place, Kolkata. The response from the Director (HR) of BSNL who was present in the hearing was found to be unsatisfactory concerning the compelling circumstances that purportedly necessitated repeated requests for verification of the petitioner's caste certificate, despite it having already been verified by the competent authority. She also stated that her office is the competent authority to request verification and that she was not aware of the aforementioned communication, which confirmed that the caste certificate of the petitioner had already been verified and authenticated by the concerned authorities in response to a second verification request sent by DGM/Vig/CNTxE, BSNL vide letter dated 23.11.2022.

Pertinently, the verification request sent by the Deputy General Manager (HR/A), Office of the CGM, BSNL, WBTC, in the letter dated 23.03.2023, cited confusion in the verification letters received from the office of SDO, Sadar, Hooghly in 2019 and 2020. However, it did not mention the subsequent verification already received by BSNL from the SDO, Sadar, Hooghly vide letter no. HGLY-64026(12)/1/2021-SDO SADAR(HGLY) dated 13.12.2021. This verification was in response to the second verification request made by the DGM/Vigilance/CNTxE in the letter dated 23.11.2021.

From the above discussion, it becomes abundantly clear that there was a communication lapse, particularly between the office of the Director (HR) and other units of BSNL, which resulted in repeated requests for verification of the petitioner's caste certificate, even after it had already been verified and authenticated by the competent authorities. However, the Director

-3-


निरुपम चाकमा / Nirupam Chakma
सदस्य / Member
राष्ट्रीय अनुसूचित जनजाति आयोग

(HR) of BSNL assured that she would coordinate with the other BSNL offices and sort out the case as per the rules.

During the proceedings, the PO cum DWO, Hooghly, informed that in response to the request for verification of the petitioner's ST certificate received from BSNL via letter dated 23.03.2023, the office of the SDO, Sadar Hooghly, has issued an order for the cancellation of the caste certificate by way of an order dated 12.09.2023. He has suggested that it will be more appropriate for the petitioner to file an appeal against the order before the District Magistrate, Hooghly, who is the Appellate Authority for cancellation of the order of SDO, after following due procedure. However, his response regarding the competency of the SDO to cancel the caste certificate that was already verified and authenticated by a previous SDO, as well as further validated by the State Vigilance Commission, Anti-Corruption Unit, Hooghly, and by the Backward Classes Welfare and Tribal Development, Office of the DM, Hooghly, was deemed unsatisfactory. He was also silent on whether any adverse observations or actions were recommended against the concerned officers who had previously verified and authenticated the certificate, should it later be found to be false.

As the records show, the petitioner's ST certificate was subjected to a verification process in 2019/2020. A second verification was requested vide letter dated 23.11.2021 wherein the DGM/Vig/CNTxE had sent a letter to the State Vigilance Commission with copies to (i) Principal Secretary, Backward Classes Welfare (BCW), (ii) DM, Hooghly, (iii) ADM, Hooghly, and (iv) SDO, Sadar, Hooghly, highlighting the ambiguities and anomalies found in previous verification letters from the office of the SDO. In response, the Caste Certificate was verified and authenticated by the verification letter from the SDO dated 13.12.2021, as well as the report from the State Vigilance Commission, Government of West Bengal (memo number 23/V/O Cell/PCR(NAR)-79/2022, dated 29.02.2022), and the confirmation of authenticity by the Project Officer cum District Welfare Officer, Backward Classes Welfare & Tribal Development, c/o DM Hooghly (memo number 1154-BCW/Hug). This verification of the petitioner's caste certificate therefore should have been accepted by BSNL instead of making repeated requests for verification from the authorities.


Indeed, the Hon'ble Supreme Court in *J. Chitra versus District Collector and Chairman, State Level Vigilance Committee, Tamil Nadu and Ors.*, [Civil Appeal No. 5160 of 2010], held that repeated inquiries into caste certificates are detrimental to SC and ST members and can only be reopened if they are vitiated by fraud or issued without proper inquiry.

Based on the above facts and circumstances that emerge, the Commission is of the view that the repeated requests made by BSNL for verification of the petitioner's ST certificate after competent authorities had already authenticated the certificate were unnecessary and unwarranted. Such actions can be considered harassment under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

In view of the discussion above and the facts and circumstances pertinent to this case, the Commission hereby issues the following recommendations:

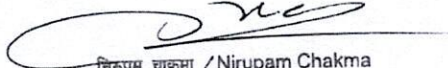
1. BSNL West Bengal Telecom Circle or the relevant competent unit within BSNL, is to recognize and accept the verification conducted by the SDO Sadar Hooghly, vide letter dated 13.12.2021, which confirms the authenticity of the ST Certificate

- 4 -


নিরুপম চাকমা / Nirupam Chakma
সদস্য / Member

of Pintu Kumar Gond bearing number 304/BCW/HUG/CT/MOG dated 17.05.2011.No further verification or related proceedings regarding his caste certificate should be undertaken.Additionally, any communication lapses between the various units of BSNL regarding the verification of the petitioner's ST certificate are to be addressed and resolved. As assured to by the BSNL authorities present during the hearing proceedings against Shri Pinto Kumar Gond pertaining to verification of his ST certificate may be closed.

2. The cancellation of the petitioner's ST certificate vide order dated 12.09.2023 passed by SDO Sadar, Hooghly is to be revoked.
3. Action Taken Report (ATR) to be submitted by BSNL and DM, Hooghly and SDO, Sadar, Hooghly within 30 days from receipt of the recommendations.


निरुपम चाकमा / Nirupam Chakma
सदस्य / Member
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार / Government of India
नई दिल्ली / New Delhi

Annexure

List of participants of the sitting held on 07.08.2024 at 12:30 PM under the Chairmanship of Shri N. Chakma, Hon'ble Member, NCST in the case of President, Akhil Bhartiya Gond Adivasi Sangh, New Delhi regarding harassment of ST employee of BSNL by the administration of District Hooghly

I	<u>Govt. of West Bengal</u>
	Shri Tapas Biswas, W.B.C.S.(Exe.), PO cum DWO, BCW & TD
II	<u>BSNL</u>
1.	Dr. Kalyan Sagar Nippan, Director (HR)
2.	Shri Gajendra Kumar, Sr. General Manager & Chief Liaison Officer (SCT)
3.	Ms. Sabita Soy, General Manager (HR and Admin)
II	<u>Petitioner</u>
1.	Chandra Bhan Prasad Gond
2.	Shri Pinto Kumar Gond