

GOVERNMENT OF ODISHA
ST & SC DEVELOPMENT DEPARTMENT

No. 7389 /SSD., Dated Bhubaneswar the, 26th April, 2019
STSCD-FRA-CASE 1-0001-2016

From

Shri R. Raghu Prasad, IFS,
Commissioner-cum-Secretary to Govt.

To

All Collectors.

Sub: Review of rejected claims (Individual) under Forest Rights Act; Compliance to the orders of the Hon'ble Supreme Court of India dtd. 13.02.2019 and 28.02.2019 in Writ Petition (C) No. 109/2008 – (copies of the extract orders enclosed).

Ref: Ref: This Department letter No. 10740/SSD dt.16.06.2016, No.10535/SSD dated 05.06.2017, Memo No. 5644/SSD dated 16.03.2017, no.14010/SSD dated -4.08.2017 and letter no.15179/SSD dated 23.08.2017 no.5464 Dt.13.03.2019 and letter no.6541 Dt.29.03.2019.

Madam / Sir,

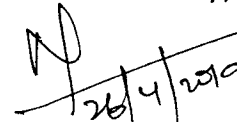
In inviting a reference to the subject and letters cited above, I am to say that State Government will have to file an affidavit before the Hon'ble Supreme Court in WP(C) No.109/2008, by end of June 2019, providing detailed information on the Individual Forest Right claims which have been rejected. In this regards, detailed instructions were issued earlier vide letters referred above for taking up *Suo-motu* appeals and review of all rejected claims (Individual) under the Forest Rights Act.

All the Nodal Officers under Forest Rights Act have also been directed to furnish the detail information on each of the rejected claims in a prescribed format by 15.04.2019. Accordingly, only five districts namely **Kandhamal, Boudh, Dhenkanal, Bargarh and Jagatsinghpur districts** have submitted partial information on the rejected claims. In view of the urgency of the matter, you are requested to personally look into the matter and ensure that the information on all rejected claims are compiled and submitted to this department immediately. Further a copy of the compiled information on all rejected claims should be made available to the respective Divisional Forest Officers, Sub-Collectors and Tahsildars for their information and necessary follow up action.

It is again reiterated that the review of all rejected claims should be taken up on a mission mode at the SDLC and DLC levels, so that State Government will be able to file the compliances before the Hon'ble Supreme Court by end of June 2019.

This may be treated as TOP PRIORITY

Yours faithfully,


26/4/2019

Commissioner-cum-Secretary to Govt.

Memo No. 7890 /SSD dated 26-04-2019.

Copy along with enclosures forwarded to the Additional Chief Secretary, Forest & Environment Department/ Principal Secretary to Govt. Revenue & DM Department / Principal Chief Conservator of Forests and HoFF for information and necessary action.

adhy
26/04/2019

Additional Secretary to Govt.

Memo No. 7891 /SSD dated 26-04-2019.

Copy along with enclosures forwarded to all RDCs for information and necessary action.

adhy
26/04/2019

Additional Secretary to Govt.

Memo No. 7892 .SSD dated 26-04-2019.

Copy along with enclosures forwarded to all DWOs, PA, ITDAs for information and necessary action.

adhy
26/04/2019

Additional Secretary to Govt.

ITEM NO.3

REVISED
COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 109/2008

WILDLIFE FIRST & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.
IA NO.35782/2019- APPLN. FOR MODIFICATION

Respondent(s)

Date : 28-02-2019 This petition was called on for hearing today.

CORAM :

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HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE M.R. SHAH

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Validity unknown

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UPON hearing the counsel the Court made the following
O R D E R

We have heard Mr. Tushar Mehta, learned Solicitor General, Mr. A.N.S. Nadkarni, learned Additional Solicitor General, Mr. Kapil Sibal, learned Senior Counsel, Mr. Vivek Tankha, learned Senior Counsel and Mr. R.K. Raizada, learned Senior counsel appearing for the parties at some length.

It was pointed out that the State Governments have filed their data including how many claims have been rejected and the eviction orders that have been passed but they have not stated the procedure

adopted for rejection orders/claims of the Tribals. It has not been placed on record as to who has rejected the claims and under which provision of law the eviction has to be made and who is the competent authority to pass such orders.

It was also submitted that in most of the matters Tribals have not been served with the orders of rejection orders of their claims and it is also not clear whether the three tier Monitoring Committee constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 have supervised all these aspects.

Let the State Government also clarify what is the process to be followed for eviction after rejection orders have been passed.

In the facts and circumstances of the case, we direct the Chief Secretaries of various State Governments to file detailed affidavits covering all the aforesaid aspects and also place on record the rejection orders and the details of the procedure followed for settlement of claims and what are the main ground on which the claims have been rejected. It may also be stated that whether the Tribals were given opportunity to adduce evidence and, if yes, to what extent and whether reasoned orders have been passed regarding rejection of the claims.

It was submitted that at the present juncture there is likelihood of traditional Tribals being affected whose claims have been rejected. At the same time the question which is also of significance and which cannot be ignored and overlooked is that in

the guise of and Other Traditional Forest Dwellers (OTFDs), the land is not occupied by mighty people, industrialists and other persons who are not belonging to the aforesaid category. Let the State Governments also point out the category wise details of such incumbents who have been occupying these areas belonging to Scheduled Tribe category and OTFD category and such persons who cannot be treated as Tribals. Let details be furnished in their affidavits to be filed by the Chief Secretaries. However, till we examine all aforesaid aspects, we keep our order dated 13.02.2019 on hold so far as eviction is concerned.

Let what kind of orders have been passed be placed on record. It was pointed out by Mr. Shyam Divan, learned Senior Counsel that the State Governments, subject to the decision of this Court on various aspects, should also place on record the course of action with respect to the claims which have not been found to be genuine, what they are going to ultimately undertake and the time frame.

In the meantime, the Forest Survey of India has to make a satellite survey and place on record the encroachment positions as far as possible in this Court before the next date of hearing as directed in order dated 13.02.2019. Mr. Tushar Mehta, learned Solicitor General has undertaken to inform the Forest Survey of India to complete the Satellite survey.

List on 24.07.2019.

(ASHA SUNDRIYAL)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

ITEM NO.101

COURT NO.4

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 109/2008

WILDLIFE FIRST & ORS.

Petitioner(s)

VERSUS

MINISTRY OF FOREST AND ENVIRONMENT & ORS.

Respondent(s)

(IA 5/2014, 1/2008, 6/2014, 2/2008, 7/2015, 69409/2018, 75108/2018,
75127/2018, 88926/2018)

WITH

T.C.(C) No. 3/2016 (XVI-A)

W.P.(C) No. 50/2008 (PIL-W)

(IA 1/2008 FOR EXEMPTION FROM FILING O.T. ON IA 53871/2018
FOR [I/A FOR WAIVER OF COSTS FILED BY THE STATE OF KERALA] ON IA
61560/2018

FOR EXEMPTION FROM FILING O.T. ON IA 68563/2018)

T.C.(C) No. 39/2015 (XVI-A)

T.C.(C) No. 41/2015 (XVI-A)

T.C.(C) No. 59/2015 (XVI-A)

S.L.P.(C)...CC No. 11408-11409/2009 (XII)

T.C.(C) No. 103/2015 (XVI-A)

W.P.(C) No. 514/2006 (PIL-W)

T.C.(C) No. 132/2015 (XVI-A)

T.C.(C) No. 85/2011 (XVI-A)

T.C.(C) No. 87/2011 (XVI-A)

T.C.(C) No. 12/2018 (XVI-A)

Validity of signature : 13-02-2019 These matters were called on for hearing today.

Digitally signed by
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UPON hearing the counsel the Court made the following
O R D E R

RE : AFFIDAVIT OF STATE OF ANDHRA PRADESH

Perused the affidavit.

The affidavit indicates that the extent of land covered by rejections in respect of STs is 1,14,400 acres and 66351 claims have been rejected. But the action taken indicates that not even a single order has been complied with.

Once the orders of eviction have been passed, the eviction ought to have taken place. Let the Chief Secretary to the State of Andhra Pradesh file an affidavit as to why the orders of eviction have not been carried out so far in respect of the incumbents whose claims have been rejected as per the affidavit filed on 24.04.2018 filed by Mr. Gandham Chandrudu, Director of Tribal Welfare Department. Let action be taken on or before next date.

Let the requisite affidavit be filed with necessary details and other matters mentioned in the order on or before 12.07.2019.

RE : AFFIDAVIT OF ASSAM

The following information has been given in the affidavit filed by the State of Assam :-

"4. It is stated that the total number of claims belonging to

- a) Scheduled Tribe - 74,364*
- b) Other Traditional Forest Dwellers - 19966*

5. The following are the total number of claims rejected in the State of Assam :-

- a) Scheduled Tribe - 22398.*
- b) Other Traditional Forest Dwellers - 5136*

6. It is stated that total extent of land as claimed

- a) Schedule Tribe - 10128 hectares*
- b) Other Traditional Forest Dwellers - 561.4 Hectares*

7. It is further stated that the Divisional Forest Officer within their jurisdiction have submitted proposal to the Principal Chief Conservator of Forest & Head of the Forest Force to carry out eviction in respect of claims

rejected by the District Level Committee.

8. It is stated that steps are already taken for eviction of all the encroachers/claimants whose claims have been rejected. The total extent of area to be evicted is assessed and will be submitted within a short time of period."

The Chief Secretary to the State of Assam is directed to file an affidavit stating whether the incumbents in respect of whom the rejection orders have been passed, have been evicted or not and if not, the reasons for the same. In case the eviction orders have attained finality, we direct the concerned authority including the Chief Secretary to ensure that the eviction is made on or before the next date of hearing.

I.A.No. 69409 of 2018 - application for waiving of the costs imposed vide order dated 18.04.2018 is rejected.

RE : AFFIDAVIT FILED BY THE STATE OF BIHAR

In the affidavit filed by the State of Bihar, the following facts have been mentioned in Paragraph 7 :-

"7. That as per report submitted by the concerned District Magistrates, total claims comes to 4696. Out of that total 2976 applications are related to STs and 1720 to OTFDs (Other Traditional Forest Dwellers). The total number of claims rejected comes to 4354 out of which rejected claims of STs are 2666 and OTFDs are 1688."

A detailed statement has been filed indicating that in some of the Districts, action is being taken for eviction and in some of the Districts, it is not treated as the persons who were found not occupying the area over which they had raised the claim.

Let detailed affidavit be filed by the Chief Secretary to the State of Bihar in respect of the number of claims settled and in the cases where claims have been rejected and have attained finality, whether eviction has been ordered and possession has been taken or not. Let full status be disclosed in the affidavit. It is further directed that the cases in which the orders have attained finality, let eviction be made forthwith. In case of non-compliance of this order, the same shall be viewed seriously.

RE - AFFIDAVIT FILED BY THE STATE OF CHHATTISGARH

The affidavit filed by the State of Chhattisgarh indicates that against 20095 claimants, whose claims have been rejected, have to be evicted, whereas action has been taken only against 4830 claimants of STs and OTFDs.

Let the Chief Secretary to the State of Chhattisgarh ensure, by way of an affidavit, that where the eviction orders have attained finality, whether orders are carried out. It shall also be indicated in the affidavit as to how many claims are still pending for verification. A compliance report be filed on or before the next date of hearing.

RE : AFFIDAVIT FILED BY THE STATE OF GOA

We have perused the affidavit filed by the State of Goa. It appears that 6094 claims have been filed by STs and 4036 claims have been filed by OTFDs.

Let the Chief Secretary to the State of Goa indicate, by way of an affidavit, as to how many claims have been adjudicated. In case eviction orders have attained finality, whether those incumbents have been evicted or not. The Chief Secretary shall ensure that eviction is carried out and compliance report be submitted to this Court on or before the next date of hearing.

RE : AFFIDAVIT FILED BY THE STATE OF GUJARAT

The affidavit filed by the State of Gujarat indicates that 1,68,899 claims have been filed by STs and 13,970 claims have been filed by OTFDs. Let Chief Secretary to the State of Gujarat indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF HIMACHAL PRADESH

The affidavit filed by the State of Himachal Pradesh indicates that 2131 claims have been filed by STs and 92 claims have been filed by OTFDs. Let the Chief Secretary to the State of Himachal indicate, by way of an affidavit, as to why after the rejection of

the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF JHARKHAND

The affidavit filed by the State of Jharkhand indicates that 1,07,187 claims have been filed by STs and 3569 claims have been filed by OTFDs. Out of the above, 27,809 claims of STs and 298 claims of OTFDs have been rejected.

Let the Chief Secretary to the State of Jharkhand indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF KARNATAKA

The affidavit filed by the State of Karnataka indicates that 48,432 claims have been filed by STs and 2,27,014 claims have been filed by OTFDs. Out of the above, 35,521 claims of STs and 1,41,019 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Karnataka indicate, by way of an affidavit, as to why after the rejection of the claims, which have

attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF KERALA

Let verification/re-verification process be concluded within four months from today.

The affidavit filed by the State of Kerala indicates that 39,999 claims have been filed by STs, out of which 894 have been rejected. Let the Chief Secretary to the State of Kerala indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MADHYA PRADESH

The affidavit filed by the State of Madhya Pradesh indicates that 426105 claims have been filed by STs and 153306 claims have been filed by OTFDs. Out of the above, 204123 claims of STs and 150664 claims of OTFDs have been rejected. Let Chief Secretary to the State of Madhya Pradesh state, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MAHARASHTRA

The affidavit filed by the State of Maharashtra indicates that 2,54,042 claims have been filed by STs and 105681 claims have been filed by OTFDs. Out of the above, 13712 claims of STs and 8797 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Maharashtra indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF ODISHA

The affidavit filed by the State of Odisha indicates that 5,73,867 claims have been filed by STs and 31,687 claims have been filed by OTFDs. Out of the above, 122,250 claims of STs and 26,620 claims of OTFDs have been rejected. It is stated that the rejected claims are being reviewed. Let the review process be completed within four months. Let the Chief Secretary to the State of Odisha indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been

made...

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF RAJASTHAN

The affidavit filed by the State of Rajasthan indicates that 73,578 claims have been filed by STs and 597 claims have been filed by OTFDs. Out of the above, 36,492 claims of STs and 577 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Rajasthan indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TAMIL NADU

The affidavit filed by the State of Tamil Nadu indicates that 31,821 claims have been filed by STs and 2,481 claims have been filed by OTFDs. Out of the above, 7,148 claims of STs and 1881 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Tamil Nadu indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TELANGANA

The affidavit filed by the State of Telangana indicates that 1,83,252 claims have been filed by STs. Out of the above, 82,075 claims of STs have been rejected. Let Chief Secretary to the State of Telangana indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made in spite of the order passed by this Court.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF TRIPURA

The affidavit filed by the State of Tripura indicates that 166584 claims have been filed by STs and 33774 claims have been filed by OTFDs. Out of the above, 34483 claims of STs and 33774 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Tripura indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before

the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF UTTARAKHAND

The affidavit filed by the State of Uttarakhand indicates that 90 claims have been filed by STs and 119 claims have been filed by OTFDs. Out of the above, 35 claims of STs and 16 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Uttarakhand indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF UTTAR PRADESH

The affidavit filed by the State of Uttar Pradesh indicates that 31,846 claims have been filed by STs and 50,442 claims have been filed by OTFDs. Out of the above, 20494 claims of STs and 38167 claims of OTFDs have been rejected. Let the Chief Secretary to the State of Uttar Pradesh indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out,

as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF WEST BENGAL

The affidavit filed by the State of West Bengal indicates that 95958 claims have been filed by STs and 36004 claims have been filed by OTFDs. Out of the above, 50288 claims of STs and 35856 claims of OTFDs have been rejected. Let the Chief Secretary to the State of West Bengal indicate, by way of an affidavit, as to why after the rejection of the claims, which have attained finality, eviction has not been made.

The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court.

RE : AFFIDAVIT FILED BY THE STATE OF MANIPUR

The learned counsel appearing for the State of Manipur has stated that they are going to file compliance affidavit within four weeks from today. Let it be filed within four weeks.

It is directed that where the verification/reverification/review process is pending, the concerned State shall do the needful within four months from today and report be submitted to this Court.

Let Forest Survey of India (FSI) make a satellite survey and place on record the encroachment positions and also state the positions after the eviction as far as possible.

Let the requisite affidavits be filed on or before 12.07.2019.

List the matters on 24.07.2019.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER