



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/2990/2017</u> Mohd. Shafi --Petitioner Versus State Of Uttarakhand Through Principal Secretary --Respondent <u>Hon'ble Manoj Kumar Tiwari, J</u> 1. Mr. M.C. Kandpal, learned Senior Counsel assisted by Mr. Devesh Kandpal, learned counsel for the petitioner. 2. Mr. Yogesh Pandey, learned Deputy Advocate General for the State of Uttarakhand. 3. Petitioners claim to be Traditional Forest Dwellers. They made representation to Divisional Forest Officer, claiming right which are available to Traditional Forest Dweller under Section 3 of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The said representation was rejected by Divisional Forest Officer, Tarai Central, Forest Division Haldwani, District Nainital, vide order dated 21.04.2016. 4. Petitioners have challenged the said order mainly on the ground that Divisional Forest Officer could not have returned a finding that petitioners do not fall within the definition of "Traditional Forest Dwellers or other persons", which are protected by the aforesaid Act.



			5. It is contended that the Rules framed by Central Government under the aforesaid Act and notified on 01.01.2008 provide detailed procedure for identification of Forest Dwellers. It is contended that as per the Scheme of the Rules, Gram Sabha shall initiate the process of verification of claim under the provisions of Act and thereafter the Sub-Divisional Level Committee and District Level Committee shall identify persons as Forest Dweller. Thus, it is contended that the finding returned by Divisional Forest Officer in the impugned order is beyond the scope of his powers, as are available under the aforesaid Act. 6. Learned State Counsel, however, submits that the order was passed by Divisional Forest Officer in compliance of order dated 02.11.2015 rendered in WPMS No. 2012 of 2015. 7. Although coordinate Bench had directed the Divisional Forest Officer to decide the representation submitted by petitioners in the light of Section 3 of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, however, the said order cannot be pressed into service for defending the impugned order, as in the impugned order, Divisional Forest Officer has returned a finding which will come in the way of the petitioners at the time of their identification for claiming benefit under the aforesaid Act. 8. Since Divisional Forest Officer has taken a decision on a field which is reserved for Sub-Divisional Committee and District Level Committee, therefore,
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the finding returned is beyond the scope of powers available to Divisional Forest Officer. On this ground alone, the impugned order deserves to be set-aside and is hereby set-aside.

9. Accordingly, the writ petition is allowed. Petitioners shall be at liberty to make application before the Competent Authority for identification as Traditional Forest Dweller, and the application if made within four weeks from today, shall be dealt with as per law, within six months thereafter. For a period of seven months or till decision is taken by the Competent Authority, whichever is earlier, petitioners shall not be dispossessed and they shall be permitted to carry on the activity, which they were undertaking since decades. However, if petitioners fail to make application within four weeks, they shall not be entitled to any protection of this order.

(Manoj Kumar Tiwari, J)

01.07.2026

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