

**THE HIGH COURT OF TRIPURA
AGARTALA**

W. P. (C) No.533 of 2011

W. P.(C) No.536 of 2011

In W. P. (C) No.533 of 2011

Sri Brajendra Reang,
son of Pathai Rai Reang,
resident of Paschim Karbook,
PO & PS – Karbook, Sub-Division – Amarpur,
District – South Tripura, Pin-799 104

.....**Petitioner**

– Vs –

1. The State of Tripura,
represented by the Principal Secretary to the Government of
Tripura, Department of Forest,
having his office at Capital Complex, Gurkhabasti,
PO – Kunjaban, PS – East Agartala, Sub-Division – Agartala,
District – West Tripura, Pin Code – 799 006.
2. The Principal Chief Conservator of Forest, Government of
Tripura, having his office at Aranya Bhawan, Pandit Nehru
Complex, PO – Kunjaban, PS – East Agartala, Sub-Division –
Agartala, District – West Tripura, Pin Code – 799 006.
3. The Divisional Forest Officer,
Government of Tripura, having his office at Gumati Division,
Jatanbari, PO-Jatanbari, PS-Nutanbazar, Sub-Division –
Amarpur, District – South Tripura, Pin Code No.799 104

.....**Respondents**

In W. P.(C) No.536 of 2011

Sri Lathindra Reang,
son of late Baithan Roy Reang,
resident of Village-West Manikya Dewan, Nutanbazaar, West
Karbook, PO – Bairagir, PS-Nutanbazaar, Sub-Division –
Amarpur, District – South Tripura

.....**Petitioner**

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Amarpur, District – South Tripura, Pin Code No.799 104

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B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioners : Mr. Somik Deb, Advocate
For the respondents : Ms. A. S. Lodh, Addl. GA
Date of hearing and delivery : **29.06.2015**
of judgment and order
Whether fit for reporting : **NO**

Judgment and Order (Oral)

Heard Mr. Somik Deb, learned counsel appearing for the petitioners as well as Ms. A. S. Lodh, learned Additional Government Advocate appearing for the respondents.

02. Both the writ petitions being W.P.(C) No.533 of 2011 and W.P.(C) No.536 of 2011 are clustered together for disposal by a common judgment as the identical fact and question of law are involved in those petitions.

03. The undisputed fact is that the petitioners on their jote lands raised trees and on their application the Tree Registration Certificate (TRC) was issued by the competent authority, the Divisional Forest Officer, Gomati Division, Jatanbari. After such TRC was granted to each of the petitioners, they applied for extraction of trees. The necessary permission for extracting the trees were granted by the order dated 21.01.2010, Annexure-P/7 to W.P.(C) No.533 of 2011 and the order dated 04.08.2010, Annexure-P/5 to W.P.(C) No.536 of 2011. In each cases, the petitioners got permission for extracting 30(thirty) Nos. of trees as specified. In terms of the order, the petitioners

extracted the trees and applied for issuance of transit passes for transporting the timber to the market.

04. The respondent No.3 without issuing such transit permit by the order dated 26.10.2010, Annexure-P/8 to W.P.(C) No.533 of 2011 and Annexure-P/6 to W.P.(C) No.536 of 2011 cancelled the TRC and the permits to extract the trees with note that if the trees are already felled down and converted into logs, but still not transported may be seized and confiscated.

05. It transpires that the said orders dated 26.10.2010 which are challenged in these writ petitions were issued on the purported report of inquiry. The inquiry was admittedly carried out by some forest officials and the petitioners have asserted that such inquiry was carried out behind their back and they had no opportunity to have their say on the identification of their land from where the trees, in terms of the permit granted by the Divisional Forest Officer, the respondent No.3, were extracted.

06. Mr. Somik Deb, learned counsel has contended that the so-called inquiry is entirely perverse inasmuch as the registered trees which were extracted were standing on the jote land of the petitioners. Thus, the impugned action by the respondent is wholly illegal and calls for interference by this Court.

07. Ms. A. S. Lodh, learned Addl. GA appearing for the respondents has submitted that from the field inquiry report it appeared that most of the trees felled by the petitioners were extracted from the forest land and on the basis of the said report the impugned orders dated 26.10.2010 are issued emergently in order to stop illegal felling or transportation of timber from the forest. Ms.

Lodh, learned Addl. GA has further submitted that the petitioners have been issued show cause notice on 30.06.2012, Annexure-R/10 to the counter affidavit filed by the respondents, so that the petitioner would get the opportunity to show that the trees were extracted from the jote land. For the purpose of reference, the show cause notice dated 30.06.2012 is entirely extracted.

**"No.F.1-14/inquiry/GMT-10/P-II/1724-28
Government of Tripura
Office of the Divisional Forest Officer
Gumti Divisional:Jatanbari**

Dated 30/06/2012

SHOW CAUSE NOTICE

Whereas, Govt. had ordered an inquiry into the allegation against cases of illegal felling of trees from forest land/khas land in the name of jote land under Gumti Division during 2009-10. Accordingly joint field verification was conducted by the team constituted for this purpose.

And whereas, it has been observed from the field verification report that, the following Joteders against TRC No.1223, against Category – IV(b), Annexure-F&TRC No.1232, against Category –III (b), Annexure –C of Inquiry report is involved in felling of partly/entirely or marking of trees partly/entirely outside his registered C.S. plot nos as noted in TRC which is clear violation of guidelines/rules framed to this effect.

And whereas, there are reasons to believe that, the Joteder has rendered all assistances/got connived with others responsible for the above purpose and whereas it has been directed vide letter No.F.7(193)/For/FP-2K/Part-I/20606-07 dated, 26/10/2010 to cancel the TRC against the Category mentioned above.

Hence the following Joteder against TRC No.1223 & 1232 is asked to "SHOW CAUSE" within 15 days from the date of issue of this notice as to why the TRC issued in favour of Joteder concerned shall not be treated as cancelled.

If no reply/representation is received from Joteder within stipulated time period, the decision shall be taken ex-parte.

Issue under my seal & signature this day on 29/06/2012.

Sd/- Illegible
[A. Das]
Authorized officer
Divisional Forest Officer
Gumti Division: Jatanbari"

08. While scrutinizing the records, for the purpose of appreciating the submission made by the learned counsel, this Court has been really taken aback on discovering how arbitrarily the action against the citizens has been taken by the public officer while cancelling the TRC and permits for extracting the trees. The show cause notice was issued on 30.06.2012 asking that the TRC shall not be treated as cancelled, whereas by the order dated 26.10.2010 it has been categorically directed that TRCs and the permit orders in all such cases may be cancelled. If the trees are felled down and converted into the timber but still not transported may be seized and confiscated.

09. It is unambiguously clear that without affording any opportunity to the petitioners such decision was taken behind their back which action is in flagrant derogation of the principles of natural justice. As such, the said action is liable to be interfered with and accordingly it is interfered. Hence, the orders dated 26.10.2010, Annexure-P/6 to W.P.(C) No.536 of 2011 and Annexure-P/8 to W.P.(C) No.533 of 2011 are quashed.

10. Mr. Somik Deb, learned counsel for the petitioners has further submitted on instruction that in terms of the order dated 26.10.2010, the timbers have been seized. Since the dispute was in the seison of this Court, the petitioners did not make any reply to the show cause notice. Having regard to that context, the petitioners are permitted to file the reply to the show cause within six weeks from today with all relevant documents showing that the TRC as issued were

only in respect of trees standing on their respective jote lands and the permits those were issued against the TRC are only in respect of those standing on their jote land. Further, the petitioners shall place on records that the trees extracted were the trees referred in the TRC. The Divisional Forest Officer, Gumti Division, Jatanbari on receipt of the said reply shall take the decision on affording opportunity of hearing to the petitioners within 15 days thereafter. If it is found that the trees felled by the petitioners in terms of the TRC or the permits issued by the respondent No.3 were on the jote land, those timbers as stated to have been seized by the respondents shall immediately be released with the transit permit so that the petitioners can transport those timbers to the location of sale or any other destination.

11. With this observation and direction, this petition stands allowed to the extent as indicated above. There shall be no order as to costs.

A copy of this order be furnished to Ms. A. S. Lodh, learned Addl. GA for required transmission.

JUDGE

MB