

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1650 of 2013**

- Smt. Sharda Soni W/o S.K. Soni Aged About 52 Years R/o Civil Lines, Vaishnav Colony, Baloda Bazar, Civil & Revenue District Baloda Bazar, Cg

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Tribal Welfare Department, Mahanadi Bhawan, Naya Raipur District Raipur (CG)
- 1A. Secretary Chhattisgarh Rajya Anusuchit Janjati Ayog, Raipur, District Raipur (CG)
2. The Collector, Balodabazaar, Distt Balodabazar- Bhatapara, Cg
3. Superintendent Of Police Balodabazaar, Distt Balodabazaar-Bhatapara, Cg
4. Sub Divisional Officer Balodabazar, Distt Balodabazar-Bhatapara, Cg
5. Raju Dhruw S/o Kalyan Singh Dhruw Aged About 45 Years R/o Kumurdi, Revenue Distt. Baloda-Bazar, Civil Distt. Raipur C.G. P.S. Baloda Bazar
6. Shri Firanta S/o Kalyan Singh Dhruw Aged About 48 Years R/o Kumurdi, Revenue Distt. Baloda-Bazar, Civil Distt. Raipur C.G. P.S. Baloda Bazar
7. Rajaram S/o Kalyan Singh Dhruw Aged About 48 Years R/o Kumurdi, Revenue Distt. Baloda-Bazar, Civil Distt. Raipur C.G. P.S. Baloda Bazar

---- Respondent

For Petitioner : Shri Awadh Tripathi, Advocate.
 For Respondent/State : Smt. Astha Shukla, Panel Lawyer.
 For Respondent No.1A : Shri B.L. Sahu appears on behalf of Shri AS Kachhawaha Advocate.
 For Respondents 5 to 7 : Shri Prakash Tiwari, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/06/2016

1. The petitioner is aggrieved by the recommendations made by the Chhattisgarh Scheduled Tribe Commission (for short 'the Commission') vide Annexure-P/1 recommending to the concerned Police to register FIR against the petitioner for committing offence under Sections 420, 120-B, 468, 469, 470 & 471 of the IPC and Section 3(1)(viii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 alleging commission of fraud and cheating by the petitioner and depriving respondents 5, 6 & 7 of their land bearing Khasra Nos.101/8, 109/9, 109/10, 109/11, 109/12, 109/13, 123/2, 123/3, 123/4, 123/5, 218/5, 258/6, 258/7 and 258/9, total area 0.87 hectares situated at village Kukuradi, Tehsil and District Balodabazar.
2. A complaint was made by the said respondents before the Commission. After summoning the parties and recording evidence, the Commission has made recommendations. Recommendation has also been made against Patwari Shri Shyamlal Verma for initiating departmental enquiry. The said part of the recommendation is not assailed before this Court because Shri Shyamlal Verma has not preferred any writ petition nor Shri Ranjit Singh Dhruw, another person against whom recommendation has been made for lodging FIR has approached this Court, therefore, that part of the order is also not considered in this writ petition.
3. A short question arises for determination in this writ petition is whether

the Commission constituted under the Chhattisgarh Scheduled Tribe Commission Act, 1995 (for short 'the Act, 1995') has power to direct the concerned police to lodge FIR and investigate the crime?

4. Functions of the Commission have been provided under Section 9 of the Act, 1995 which read thus:-

“9. Functions of the Commission.- (1) It shall be the function of the Commission -

(a) to act as watch-dog Commission for the protection afforded to the members of the Scheduled Tribes under the Constitution and under any other law for the time being in force;

(b) to recommend to the State Government to take steps to add particular tribes or parts of or groups within tribes or tribal communities in the Constitution (Scheduled Tribes) Order, 1950.

(c) to watch the proper and timely implementation of programmes meant for welfare of Scheduled Tribes and to suggest improvement in such programmes of the State Government or any other body or authority responsible for such programmes;

(d) to tender advice regarding reservation for Scheduled Tribes in public services and admission in educational institutions;

(e) to perform such other functions as may be assigned to it by the State Government.

(2) The advice of the Commission shall, ordinarily be binding upon the State Government, where, however, the Government does not accept the advice, it shall record its reason therefor.”

5. Section 10 of the Act, 1995 has clothed the Commission with powers of civil Court for summoning witnesses, production of documents, examination of witnesses on oath, summoning of records and issuance of Commission for examination of witnesses.

6. A careful reading of the provisions contained under Section 9(1)(a) of

the Act, 1995, it is apparent that the Commission is required to act as watch-dog for the protection afforded to the members of the Scheduled Tribes under the Constitution and under any other law for the time being in force, but there is no power conferred on the Commission to direct lodging of FIR against an individual. The only power available with the Commission is to act as watch-dog to protect their interest and not to initiate any penal action against any citizen. In a given case, the Commission may record its opinion and relegate members of the Scheduled Tribes Community to the Police by directing him to lodge FIR but the Commission itself cannot direct the police to register FIR.

7. It is informed that separate proceeding under Section 170-B of the CG Land Revenue Code, 1959 was initiated by respondents 5 to 7 wherein the Sub Divisional Officer (Revenue) has passed an order on 25.1.2016 for reversion of the land in favour of the tribal holders. In the said proceeding also, the petitioner was not arrayed in any capacity.
8. In view of the above, the Writ Petition is disposed of with an observation that if respondents 5 to 7 desire, they may initiate penal action against the petitioner by lodging FIR, however, the direction issued by the Commission shall not be treated as an order for registering FIR against the petitioner.

Sd/-
Judge
(Prashant Kumar Mishra)