

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPIL No. 26 of 2017

1. Arvind Netam S/o Late Sh. Vishram Thakur, Aged About 73 Years R/o Kumharparra, Jagdalpur, Chhattisgarh 494001
2. Ram Kumar Darro, S/o Sh. Massu Ram Darro, Aged About 31 Years R/o Village Kuhche, Post Antagarh, Tehsil Antagarh, District Uttar Bastar Kanker, (Chhattisgarh) 494665
3. Raipal Nuruti, S/o Aaytu Ram Nuruti, Aged About 42 Years R/o Village Pewary, Post Kamta, Thana Antagarh, District Uttar Bastar, Kanker, (Chhattisgarh) 494665

---- Petitioners

Versus

1. Union Of India Through Secretary, Ministry Of Tribal Affairs, Shastri Bhawan, New Delhi 110001
2. Union Of India, Through Secretary, Ministry Of Environment And Forests, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi 110003
3. Steel Authority Of India, Bhilai Steel Plant, Bhilai, District Durg (Chhattisgarh)
4. State Of Chhattisgarh, Through Secretary, Forest Department, Sector 19, Kotara Bhantha, Naya Raipur, (Chhattisgarh) Pincode 492101

---Respondents

For Petitioners	:	Shri A Chakraborty, Advocate
For Respondent/UOI	:	Shri NK Vyas, ASG
For Caveator	:	Shri RS Baghel, Advocate

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

27.07.2017

1) This Writ Petition is instituted on 31.01.2017 for the following reliefs :

- i. Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus

the Government of Chhattisgarh to complete the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006 in all villages of Kanker and Narayanpur district and in particular in those listed in this petition;

- ii. Issue a writ of certiorari or any other writ, order or direction in the nature of mandamus to quash and to declare null and void the Stage- I Forest clearance dated 24 November, 2008 and Stage- II Forest Clearance dated 05 August, 2009 granted to the Bhilai Steel Plant for the purpose of the Raoghat mining project;
- iii. Issue a writ of certiorari or any other writ, order or direction in the nature of mandamus to quash and to declare null and void the Environmental Clearance dated 4 June, 2009 granted to the Bhilai Steel Plant for the purpose of the Raoghat mining project;
- iv. Issue a writ of mandamus or any other writ, order or direction in the nature of mandamus to the Government of Chhattisgarh implement the Panchayat (Extension to Scheduled Areas), 1996; and
- v. Pass such other order as may be deemed fit in the facts and circumstances of this case."

2) Reliefs 2 and 3 sought for in this writ petition instituted in early 2017 are of such nature that it will be too late in the day to subject to judicial review, the sanction for forest clearance granted way back in 2008 and 2009. All the more so, in the light of the fact

that environment clearance was given to Bhilai Steel Plant for the purpose of Raoghat Mining Project on 04.06.2009.

3) Be that as it may, the primary thrust of the Writ Petition appears to be the complaint that the claims of the villages Kanker and Narayanpur districts are not appropriately addressed by the statutory and other public authorities who are duty bound to do so in terms of the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This is an issue which, rather than being taken up at this end in writ jurisdiction, has to be carried with requisite vigour by the administrative authority concerned.

4) In the light of what we have stated herein above, this writ petition is ordered directing the fourth respondent to do the needful in relation to the issues relating to what is stated in the immediately proceeding paragraph and to have such issues placed for consideration before the competent authority, if such issues are already raised and pending as of now before the State Government. This Writ Petition is ordered accordingly.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(Sharad Kumar Gupta)
Judge