

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**WPC No.1909 of 2014**

1. Anand Yadav S/o. Durga Prasad, aged about 35 years,
  2. Markande, S/o. Santosh Kumar, aged about 35 years,
  3. Parmanand, S/o. Durga Prasad, aged about 30 years,
  4. Shyamlal, S/o. Murlidhar, aged about 39 years,
  5. Raghuwar Yadav, S/o. Murlidhar, aged about 37 years,
  6. Kapildev, S/o. Jogdhani, aged about 48 years,
  7. Anrud, S/o. Jogdhani, aged about 30 years,
  8. Lavkush, S/o. Kapildev, aged about 25 years,
  9. Sachidanand, S/o. Sudarshan, aged about 28 years,
  10. Sriram, S/o. Dadhiwal, aged about 32 years,
  11. Palua, D/o. Motiram, aged about 42 years,
  12. Geerwar, S/o. Balakram, aged about 43 years,
  13. Dudhnath, S/o. Balakram, aged about 35 years,
  14. Tariknath, S/o. Balakram, aged about 30 years,
  15. Brijraj, S/o. Indradev, aged about 45 years,
  16. Krishna, S/o. Shankar, aged about 32 years,
  17. Jamuna, S/o. Shankar, aged about 26 years,
  18. Geeta Prasad, S/o. Sudama, aged about 51 years,
  19. Anil Kumar, S/o. Ravishankar, aged about 24 years,
  20. Ishwar Prasad S/o. Chandradev, aged about 29 years,
- All above R/o. Village Kesra, Tahsil Mainpat, Police Station and Post Mainpat, Civil and Revenue District Surguja (CG)

---- Petitioners

Versus

1. State of Chhattisgarh, through: Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (CG)
2. Collector, Sitapur, District Surguja (CG)
3. Sub-Divisional Officer (Revenue), Sitapur, District Surguja (CG)
4. Tahsildar, Mainpat, District Surguja (CG)
5. Nayab Tahsildar, Mainpat, District Surguja (CG)
6. District Level Forest Rights Committee, Surguja through its President, District Level Forest Rights Committee, Surguja (CG)
7. Assistant Commissioner, Tribal Welfare, Ambikapur, District Surguja (CG)
8. Divisional Forest Officer, Forest Division, Ambikapur, District Surguja (CG)

---- Respondents

**WPC No.1918 of 2014**

1. Govind Yadav S/o. Durga Yadav, aged about 39 years,
  2. Chandrabali Yadav, S/o. Udaynath, aged about 47 years,
  3. Rambali Yadav S/o. Udaynath, aged about 47 years,
  4. Chitrarekha W/o. Damodar, aged about 46 years,
- All above R/o. Village Kesra, Tahsil Mainpat, Police Station and Post Mainpat, Civil and Revenue District Surguja (CG)

---- Petitioners

Versus

1. State of Chhattisgarh, through: Secretary, Revenue Department,

Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur,  
District Raipur (CG)

2. Collector, Sitapur, District Surguja (CG)
3. Sub-Divisional Officer (Revenue), Sitapur, District Surguja (CG)
4. Tahsildar, Mainpat, District Surguja (CG)
5. Nayab Tahsildar, Mainpat, District Surguja (CG)
6. District Level Forest Rights Committee, Surguja through its President, District Level Forest Rights Committee, Surguja (CG)
7. Assistant Commissioner, Tribal Welfare, Ambikapur, District Surguja (CG)
8. Divisional Forest Officer, Forest Division, Ambikapur, District Surguja (CG)

---- Respondents

And

**WP227 No.349 of 2014**

1. Govind Yadav S/o. Durga Yadav, aged about 39 years,
  2. Chandrabali Yadav, S/o. Udaynath, aged about 47 years,
  3. Rambali Yadav S/o. Udaynath, aged about 47 years,
  4. Mamta, W/o. Rameshwar, aged about 45 years,
  5. Chitralekha W/o. Damodar, aged about 46 years,
- All above R/o. Village Kesra, Tahsil Mainpat, Police Station and Post Mainpat, Civil and Revenue District Surguja (CG)

---- Petitioners

Versus

1. State of Chhattisgarh, through: Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur (CG)
  2. Collector, Sitapur, District Surguja (CG)
  3. Sub-Divisional Officer (Revenue), Sitapur, District Surguja (CG)
  4. Tahsildar, Mainpat, District Surguja (CG)
  5. Nayab Tahsildar, Mainpat, District Surguja (CG)
  6. Murli Yadav S/o. Rampukar Yadav, aged about 70 years,
  7. Rajeshwar Yadav, S/o. Arjun Yadav, aged about 45 years,
- Respondent No.6 & 7 are R/o. Village Kesra, Tahsil Mainpat, Police Station and Post Mainpat, Civil and Revenue District Surguja (CG)

---- Respondents

|                 |   |                                  |
|-----------------|---|----------------------------------|
| For Petitioners | : | Mr.Manoj Paranjape, Advocate     |
| For State       | : | Mr.Arun Sao, Dy.Advocate General |

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order on Board**

20/3/2018

1. Since common question of law and fact is involved in these batch of writ petitions, they are heard together and are being disposed

of by this common order.

**2.** The petitioners in these batch of writ petitions were granted forest rights under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter called as “the Act of 2006”). Villagers of village Kesra, Tahsil-Mainpat, District Surguja made a complaint to the Chairman of the Committee i.e. Collector, Surguja that forest rights have been obtained by the petitioners illegally and fraudulently. The Chairman of the Committee/Collector referred the matter to the Naib-Tahsildar, Mainpat. The Naib-Tahsildar, Mainpat made an enquiry and recommended action against them to the Sub Divisional Officer. The Sub Divisional Officer referred the matter to the Collector. In the meanwhile, WP(227) No.349/2014 was filed by the petitioners herein before this Court stating that the revenue authorities have no jurisdiction to initiate any proceeding for revocation of their forest rights. This Court by order dated 9.5.2014 directed that no order of cancellation shall be passed by the Sub-Divisional Officer or by the Tahsildar. However, this order shall not come in the way of the forest rights committee, which granted patta to initiate any proceedings against the petitioners. Thereafter, the District Level Committee under Section 6 (5) of the Act of 2006 considered the matter and revoked the licence granted to the petitioners under the Act of 2006 accepting the recommendation of the Naib-Tahsildar and the Sub-Divisional Officer.

**3.** These batch of writ petitions have been filed by the petitioners herein questioning the order passed by the District Level Committee stating inter-alia that the order passed by the District

Level Committee revoking forest rights of the petitioners is unsustainable and bad in law as no opportunity of hearing to show-cause before revoking their forest rights was granted to them by the District Level Committee and as such, the order revoking their forest rights is in teeth of the principles of natural justice. Therefore, the impugned order is liable to be set aside.

- 4.** Return has been filed by the respondents/State opposing the writ petitions stating inter-alia that the order passed by the District Level Committee is strictly in accordance with law.
- 5.** Mr. Manoj Paranjape, learned counsel for the petitioners, would submit that the District Level Committee which has been constituted by the State Government under Section 6(5) of the Act of 2006 before revoking their forest rights has not even considered necessary to issue show-cause notice to the petitioners and no material has been provided to them before revoking their forest rights, as such, the order passed by the District Level Committee revoking their forest rights is in teeth of the principles of natural justice, therefore, it is liable to be set aside.
- 6.** Mr. Arun Sao, learned Deputy Advocate General for the respondents/State would submit that a complaint was made to the Chairman of the Committee i.e. Collector and the Collector has referred the matter to the Naib-Tahsildar, Mainpat, who made full-fledged enquiry, in which the petitioners were allowed to participate and then only, the order was passed by the District Level Committee accepting the recommendation of the Naib-Tahsildar and the Sub-Divisional Officer. Therefore, the principles of natural justice have been complied with by the respondents

substantially and no interference is called for in exercise of jurisdiction under Article 226/227 of the Constitution of India.

7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.
8. By virtue of the provisions contained in sub-section (5) of Section 6 of the Act of 2006, the State Government is obliged to constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee and decision of the said Committee on the record of forest rights shall be final and binding. Sub-section (5) and (6) of Section 6 of the Act of 2006 provides as under:-

“(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The Decision of the District Level Committee on the record of forest rights shall be final and binding.”

9. It is not in dispute that the District Level Committee has been constituted in District Surguja, who has granted forest rights to the petitioners on 29.9.2008 and finally approved the record of forest rights prepared by the Sub-Divisional Level Committee. However, there is no express provision in the Act of 2006 to revoke forest rights granted to the forest dwellers, but the provisions contained in Section 21 of the Madhya Pradesh General Clauses Act, 1957 (hereinafter called as “the Act of 1957”) provides a power to make, to include, to add, to amend, vary or rescind orders, etc., which provides as under:-

**“21. Power to make, to include, power to add to,**

**amend, vary or rescind orders, etc.**-Where, by any Madhya Pradesh Act, a power to issue notification, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanctions and conditions, if any, to add to, amend, vary or rescind any notifications, orders, rules or bye laws, so issued.”

- 10.** Thus, the District Level Committee has power and jurisdiction to revoke forest rights granted to the forest dwellers/petitioners. In the instant case, application/complaint was made to the Chairman of the Committee i.e. Collector for revocation of forest rights granted to the forest dwellers/petitioners, which in turn, sent to the Naib-Tahsildar for enquiry. The Naib-Tahsildar after making full-fledged enquiry made a recommendation for taking action against the petitioners to the Sub-Divisional Officer (Revenue), Sitapur and ultimately, in the said proceeding recommendation made by the Naib-Tahsildar and the Sub-Divisional Officer was accepted, but the fact remains that after receipt of recommendation of the Sub-Divisional Officer and the Naib-Tahsildar, the petitioners were not given a copy of the report of the said enquiry and that has been acted upon while revoking forest rights granted to the petitioners. Even otherwise, the District Level Committee after enquiry did not issue any notice to show-cause to the petitioners as to why recommendation made by the Naib-Tahsildar and the Sub-Divisional Officer be not accepted. In fact, the District Level Committee is the authority competent to revoke the forest rights granted to the petitioners and therefore, proper course available to the District Level Committee was either to make an enquiry after giving show-cause notice to the petitioners or to supply a copy of the recommendation with an enquiry report and then to

take a decision. None of the course available has been followed by the District Level Committee resulted in serious prejudice to the petitioners and the order passed by the District Level Committee revoking forest rights of the petitioners is in teeth of the principles of natural justice.

**11.** Accordingly, the impugned dated 11.7.2014 (Annexure P/1) passed by the District Level Forest Rights Committee is hereby set aside. The matters are remitted to the District Level Forest Rights Committee Presided by the Collector, Surguja, who shall issue fresh notice to the petitioners and after affording them an opportunity to file reply and to make enquiry (if any) and to pass a reasoned and speaking order within six weeks from the date of receipt of certified copy of this order.

**12.** Writ petition (C) Nos.1909/2014 and 1918/2014 are allowed to the extent indicated herein-above and Writ Petition (227) No.349/2014 is disposed off in terms of the order passed in above-stated writ petitions. No cost(s).

Sd/-

(Sanjay K. Agrawal)  
Judge

B/-