

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM :

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

Writ Petition No.32839 of 2018

Salem Maavattam Pappanaickenpatti
Ooratchi Malaivazh Makkal Vivasaya
Sangam Reg. No.49/2015,
Ezhupuli, Pappanaickenpatti Post
Pethanickenpalayam Taluk
Salem District.
Rep. By its President
R.Selvaraji

....Petitioner

Vs.

1. The Chief Secretary and Chairperson
State Level Monitoring committee under
the Scheduled Tribes and Other Traditional
Forest Dwellers (Recognition of
Forest Rights) Act, 2006,
Fort St.George, Chennai 600 009.
2. The District Collector and Chair person,
District Level committee under the
Scheduled Tribes and other Traditional
Forest Dwellers (Recognition of
Forest Rights) Act, 2006,
Salem District, Salem.
3. The Revenue Divisional Officer and
Chairperson Sub Divisional Level committee
under the Scheduled Tribes and other
Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006
Attur Sub Division, Attur,
Salem District.
4. The Block Development Officer,
Peddhanicken Palayam Panchayat Union,
Salem District.
5. The Pappanaickenpatti Village Panchayat
rep by its Special Officer.

6. The District Forest Officer,
Attur Forest Division, Attur,
Salem District.
7. State of Tamil Nadu rep. by its Secretary
Department of Environment and Forest
Fort St. George, Chennai 600 009.
8. Union of India,
rep by its Secretary,
Ministry of Environment and Forest,
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi 110 003.
9. Union of India rep. by its Secretary
Ministry of Tribal Welfare
Paryavaran Bhavan,
CGO Complex, Lodhi Road,
New Delhi 110 003. ...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to pass an order in the nature of Writ of Mandamus, directing the respondents to consider and pass orders on the representation dated 13.08.2018 sent by the petitioner Sangam seeking to consider their claim to grant patta to its members for an extent of 4 Acres each in the lands in S.No.1/1 of Malayapatti Village, Attur Taluk, Salem District under the provisions of the Forest Act, as resolved and recommended on 15.08.2017 by the 5th respondent/Papanaicken patti Village Panchayat Grama Sabha within a time as fixed by this Court.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents : Mr.S.V.Vijay Prasanth
Additional Government Pleader
(Forest) for R1 to R3 and R6 & R7)

O R D E R

The writ petition has been preferred by the petitioner Sangam seeking to consider the representation for issuance of patta to its members for an extent of 4 Acres each in the lands in S.No.1/1 of Malayalapati Village, Attur Taluk, Salem District under the Provisions of the Forest Act, as resolved and recommended on 15.08.2017 by the 5th respondent/Pappanaickenpatti Village Panchayat Grama Sabha.

2. According to the learned counsel for the petitioner, the Salem Mavatta Ezhupuli Malaivazh Makkal Nala Sangam filed an appeal in W.A. No.376 of 2008 and the same was allowed by the Division Bench of this Court on 20.10.2009 in the light of "Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Since the petitioner viz., Salem Maavattam Pappanaickenpatti Ooratchi Malaivazh Makkal Vivasaya Sangam (in short 'Sangam') were not aware of the said proceedings initiated in the aforesaid order, they could not implead themselves as a party. Pursuant to that the petitioner Sangam approached the authorities seeking to issue patta, in the light of the Division Bench order. But, the respondent did not consider the petitioner's representation, as the said order is only applicable to the members of the Salem Mavatta Ezhupuli Malaivazh Makkal Nala Sangam. Hence, the petitioner had filed WP. No.33267 of 2016 seeking to consider the representation. In the meanwhile, 6th respondent responded the petitioner's representation. Consequently, the said Writ Petition was withdrawn as infructuous on 26.10.2018.

3. Learned counsel for the petitioner submitted that the petitioner Sangam has made individual applications as per the prescribed form for granting patta to the Grama Sabha under Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

4. On the basis of the said recommendation made by the Grama Sabha, the 5th respondent has forwarded the applications to the 4th respondent to consider the relief sought for by the members of the petitioner's association. On 08.11.2017, 4th respondent also forwarded the said applications to the 2nd respondent and 6th respondent. Till date, there was no action initiated by the respondents for issuance of patta to the applicants/the members of Sangam.

5. Further, the petitioner has sent a detailed representation on 13.08.2018 to the respondents to consider their applications for granting patta to an extent of 4 acres each in Survey No.1/1, Malayalapatti village under the provisions of the Forest Act. On the basis of the recommendations made by the 4th respondent, no order has been passed. Hence, the present Writ Petition.

6. The learned Additional Government Pleader would strongly object that the locos standii of the petitioner's association by submitting that the members of the petitioner Sangam made individual applications to the authority concerned for granting of patta. Therefore, the association has no locos standii to file the present Writ Petition before this Court and further submitted that the said application has to be considered only by

the 2nd respondent who is the District Level Committee for granting of patta under the Forest land and further the respondent also disputed the genuineness of the members of the petitioner's association to claim rights under this Act.

7. By considering the aforesaid submissions and objections as rightly pointed out by the learned Additional Government Pleader, the 2nd respondent is the competent authority to consider the claim of the application made by the concerned applicant.

8. Therefore, without expressing any opinion including the locos standii of the association in filing the writ petition before this Court, and taking into consideration the plight of the members who belong to the Schedule Tribe, this Court is inclined to direct the 2nd respondent to pass appropriate orders on merits and in accordance with law as expeditiously as possible preferably within a period of four (4) months from the date of receipt of a copy of this order. It is made clear that the 2nd respondent has to strictly verify the genuineness of the individual member in the Sangam, who filed the application and pass appropriate order after providing an opportunity to the individual applicant.

9. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rkp

To

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the Scheduled Tribes and Other Traditional
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New Delhi 110 003.

+1cc to Mr.V.Jeevagiridharan, Advocate, S.R.No.85249

+1cc to the Government Pleader, S.R.No.85530

SSM(08/01/2019)

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