

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22366 of 2014

1. Janmukti Sangharsh Vahini (A Social and political organization) represented by its National Executive Committee Member, Chakravarti Ashok Priyadarshi, having its national office at L-164, Road No. 23, Shri Krishna Nagar, P.S.-Buddha Colony, Patna 80001.
2. Ramswarup Manjhi, S/o Late Mohar Manjhi, resident of village -Baghlatti, P.O. Musaila, P.S. Mohanpur, Dist. Gaya.
3. Smt. Rajmatia Devi , W/o Kamdeo Bhuiya, resident of village Bela, P.O. Ajnawan, P.S. Mohanpur, Dist. Gaya
4. Parsuram Manjhi, S/o Late Balki Manjhi, village Ajnavan, P.O. Ajnavan, P.S. Mohanpur, Dist. Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary cum Chairperson, State Level Monitoring Committee (SLMC) under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Secretariat, Patna- 800001.
2. Principal Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Old Secretariat, Patna
3. Collector cum District Magistrate, Gaya, and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 , at Dist. Gaya.
4. Collector cum District Magistrate, Kaimur and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 at Jahanabad
5. Collector cum District Magistrate, Banka and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 at Dist. Banka.
6. Collector cum District Magistrate, Kaimur and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 at Dist. Kaimur at Bhabhua.
7. Collector cum District Magistrate, Kaimur and Chairperson, District Level



- Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 Dist. West Champaran at Bettiah.
8. Collector cum District Magistrate, Kaimur and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 at Jamui.
 9. Collector cum District Magistrate, Kaimur and Chairperson, District Level Forest Rights Committee, under Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 District-Rohtas at Sasaram.
 10. Divisional Forest Officer, DFO Office, Mohannagar, Gaya.
 11. Union of India, through the Secretary, Ministry of Tribal Affairs, Government of India, Shastri Bhavan, New Delhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mukul Sinha, Advocate.
For the Respondent/s	:	Mr. Lalit Kishore, A.G. Mr. Ravinder Kumar Sharma, CGC.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-11-2020

Petitioners have prayed for the following
relief(s):-

(I) For an appropriate direction to the respondents to initiate the proceedings *de-novo* in terms of Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short the 'Act') on the application filed by the individual claimants and also to dispose off the same in accordance with the procedure of prescribed in Schedule Tribes and Other Traditional Forest



Dwellers (Recognition of Forest Rights) Rules, 2007 (for short the Rules') by the Sub Divisional Level Committee after affording and opportunity to individual claimants.

(II) For Quashing all orders decisions of the Sub-Divisional and District Level Committees in different districts of Bihar, rejecting the claims for forest rights made by the Scheduled Tribes and Other Traditional Forest Dwellers under the Forest Rights Act in the four districts, namely Gaya, Banka, Rohtas and Jamui and to direct them to Consider and decide all these claims afresh, strictly adhering to the provisions of the Forest Rights Act and the Forest Rights Rules. including Guidelines and amendment Rules issued by the Ministry of Tribal Affairs in 2012.

(III) For a direction to the respondents to set up effective machinery and educate at the village, sub-division and the district level to ensure that all ST (Scheduled Tribes) and OTFD (Other Traditional Forest Dwellers families) living on or cultivating forest lands in their villages and districts where no claims for forest rights could be filed so that they are able to file their claims with necessary evidences and for a further direction to examine such claims and disposed of in accordance with the provisions of the Act and the Rules.

(IV) For a Direction to the respondents to initiate this process by calling meetings of the Gramsabhas in all such villages for reconstitution of the Village Forest Rights Committees and for providing effective training and guidance for the members and



officers of the Village, Sub-Divisional and District Level Committees, so that they may be able to understand the provisions of the Act and the Rules and are able to effectively discharge their duties in accordance with the provisions of the Act and the Rules.

(V) For a Direction to the respondents to take all necessary steps to ensure that the ST and the OTFD communities residing in these villages are fully aware of the importance of Community Rights over Forest Resources, including right to protect, conserve, regenerate forests for sustainable use so that Gramsabhas of all the villages file claims for these rights and to expeditiously recognize these rights.

(VI) For a direction to respondent no. 2 to initiate proceedings to prosecute those officers and members of the SDLs and DLCs who arbitrarily reject the claims of the claimants in violation of the provisions of the Act and also the higher officers who did not take any corrective actions, although these violations were brought to their notice and thereby committed offence under Section 7 of the Act;

(VII) Any other relief or direction.”

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter to be referred as ‘the Act’) were, inter alia, enacted with the object of dealing with the problems of the forest dwellers. The Act was enacted also to provide for a framework



for recognizing and vesting with the forest rights of the forest dwellers, which has to be on the basis of certain evidence and materials. The object of the Act is to ensure sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwellers. In fact balance has to be struck between man and forest.

Petitioner No.1 claims to be an NGO working for the forest dwellers. However, there is no material placed on record to substantiate such fact.

Petitioner Nos. 2, 3 and 4 are individuals, who seek initiation of proceedings under the said Act and the Rules framed therein.

The Act, exhaustive in nature, is self-serving and complete in all respect. It provides for a mechanism for dealing with all kind of issues.

It is seen that the instant petition was filed only in the year 2014, whereas the Act, which came into force in the year 2007, was immediately implemented in the State of Bihar. It is also seen that the Rules termed as Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest



Rights) Rules, 2007 framed in the said Act were notified on 1.1.2008.

From the response filed by the Central Government as also the State Government, it is clear that the grievance of the parties, i.e., forest dwellers can be raised before the appropriate authority, constituted under the said Act and the Rules.

Record reveals that vide interim order dated 27.7.2017, this Court had directed the parties to maintain status quo on the premise that the authorities had not passed appropriate orders in accordance with law.

Having heard learned counsel for the parties, we are of the considered view that individual grievance, factual in nature, cannot be adjudicated by way of the instant writ petition, more so when there is no material on record, substantiating non-implementation of the Act or the Rules framed therein.

In so far as petitioner Nos. 2, 3 and 4 are concerned, they have placed on record their representations addressed to the District Magistrate, which are dated 6.9.2011/9/10/2011.

Be that as it may, we are of the considered view that such grievances can be redressed by the competent



authority constituted under the law.

There is mechanism for filing of appeal and its adjudication as per law. At this stage, Shri Mukul Sinha, learned counsel appearing for the petitioners, states that the petitioners shall be content if petitioners are allowed to approach the competent authority for an early decision for redressal of the grievances of each one of the individuals, including those who on account of lack of awareness of their rights could not approach this Court to joining as parties in the instant petition or file separate petitions.

We see no difficulty in accepting such suggestion. More so, when learned Advocate General states that petitioners' cases can be considered by the authorities without the issue of limitation coming in their way.

As such, we dispose of the present petition on the following mutually agreeable terms:-

- (a) Petitioner Nos. 2, 3 and 4, namely, Ramswarup Manjhi, Smt. Rajmatia Devi and Parsuram Manjhi, are permitted to file their appeals before the appropriate authority within a period of two months from today.
- (b) The said authority shall consider and decide



the same expeditiously and preferably within a period of two months thereafter. Needless to add, opportunity of hearing shall be afforded and order assigning reason shall be supplied individually to all the parties. Thereafter it shall be open for them to take appropriate action in accordance with law;

(c) If any one of the aggrieved persons who are precluded for certain reasons from approaching the authorities under the Act/Rules framed therein, it shall be open for them to seek redressal of their grievances before the appropriate authority in accordance with law. However, this they must be done within a period of three months from today.

(d) We are sure that their grievances shall be dealt with in accordance with law within a reasonable period of time though we are not inclined to extend the interim order directing status quo possession, but are hopeful that the authorities shall not precipitate action of dispossession, save and except, in accordance



with law.

Interlocutory application, if any, shall stand
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

