

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 17 OF 2017

Devidas W/o Wamanrao Patil
and others

... PETITIONERS

VERSUS

The State of Maharashtra and others

... RESPONDENTS

Mr. B.R. Waramaa, Advocate for Petitioners
Mr. A.V. Deshmukh, APP for Respondents

CORAM : T. V. NALAWADE AND
M.G. SEWLIKAR, JJ.

DATE : 15th OCTOBER, 2020

ORDER :-

1. The present petition is filed for following reliefs:

[B] By issuing writ of mandamus of appropriate Writ of directions of orders in like nature, the Respondents Nos. 1 and 2 be directed to initiate proceedings under National Scrutiny Act or TADA or MPDA or under any other law for detention of the criminals and members of the organized gangs disclosed on the basis of Annexure of the petition and more particularly in paragraph No. 4 of the petition to protect the lives, liberty and property of the villagers of village Shewade, Taluka Sindkheda District Dhule.

[C] Pending the hearing and final disposal of this Writ petition, the Respondents No. 1 and 2 be directed to place details about crimes registered against the criminals and members of the organized gangs in Shewade, Taluka Sindkheda, District Dhule and status report of their investigation and detention, if any."

2. The petitioners have prayed for taking action against more than 14 persons. Their names are mentioned in paragraph No. 4 of the petition. The prayer is made that action needs to be taken against all the persons

as mentioned in paragraph No. 4 of the petition. Though the names of those 14 persons are mentioned in the petition, they are not made party respondents to the proceeding. Admittedly, those persons are of Bhil community, which is Scheduled Tribe from Dhule District.

3. Both the sides are heard.

4. The petitioners, who are resident of village Shewade, Taluka Sindkheda, District Dhule have contended that against the persons mentioned in paragraph No. 4 of the petition, many crimes are registered. The allegation is made that their activities are being continued under the leadership of one Nana Chandra Bhil. The contentions made show that some crimes are registered for the offence committed under Section 324 of the Indian Penal Code (IPC). Some crimes are registered under Section 354 of IPC. One offence is registered under Sections 395 and 397 of the IPC, the offence relating to the property. It is contended that in view of nature of crimes registered against said Nana and other persons, it has become necessary to take action against these persons under the provisions of National Security Act, for detention, under the provisions of Maharashtra Prevention of Dangerous Activities Act (MPDA Act) and under the provisions of Terrorist and Disruptive Activities (Prevention) Act (TADA). It is contended that to protect the villagers, such action is necessary and as the Police are not taking action, the villagers are required to approach the Court.

5. The present proceeding was filed on 18-12-2016. Some orders were made by this Court. The Court had expected Police to take action. In reply dated 20-03-2017, the Police Inspector of Sindkheda Police

Station informed that they never spared the persons mentioned in paragraph No. 4 of the petition and every time when report was lodged against them, Police had registered the crime. It was informed in the reply that even externment proceeding was started against Nana Bhil in the past. There is mention in the report that chapter cases under Section 110 (g)(f) of Cr.PC. are lodged against Nana Bhil. These actions were taken between the period 2011 and 2016. First externment proceeding was started against Nana in 2011, but action failed on the ground of delay. The submissions made and record show that one incident allegedly took place on 21-06-2016, but allegation about that incident was found to be false.

6. The report of Police and record show that there were cross complaints from both sides on one occasion. Police had taken action mainly against Nana Bhil and other Bhils.

7. This Court has carefully gone through the record of the FIR to ascertain as to whether Nana has really formed Gang for making some wrongful gain. Nana is known to the villager, he appears to be a leader of Bhil people. Though there are some allegations against Nana that he was demanding ransom from the persons, who had started construction of the house under the Scheme of Gharkul of Government, the submissions made and record show that Bhil people are in minority. Persons of other community have large majority and so ordinarily they will not succumb to pressure of persons like Nana. Though many crimes are registered, but only two offence are against the property.

8. The submissions made and record show that some villagers have

dispute with Nana and his family. The dispute is going on since the year 1988. It shows that present proceeding is outcome of that dispute. The Police took action every time against Nana and Bhil persons. Nana was convicted on 20-11-2017 for the offence punishable under Section 353 of the IPC and he was sentenced to suffer simple imprisonment for one year. The Police had taken action against Nana on their own also. One report was given by the Police Officer that Nana had resisted arrest in Crime No. 07 of 2011 and due to that report for offence under Section 353 of IPC was given.

9. The material, which was shown to this Court show that every time action was taken by the Police against Bhil persons. Due to orders made by this Court, fresh externment proceeding was started against Nana Bhil and one more person. It can be said that police machinery did not show sensitivity and ascertain real problems. When there is dispute between Bhil persons, schedule tribe people, who are in minority in village and other villages, it is necessary for Police to create awareness in the persons of the majority community so that they allow Bhil persons to assimilate in the society. What is required from every system of this country is to see that the persons of such community get mixed with main stream. If they are pushed back on the basis of such allegations and if action is taken against Bhil persons, that will not help society in any way.

10. Scheduled tribe people are entitled for constitutional protection. Many development programmes are designed by the State and Central Governments to end marginalization of tribal people and to see that they are helped to assimilate in the main steam of the society. Bhil is the hilly tribe of ancient times. Bhil were known as warrior people. For some time,

there was demand of creation of regiment of Bhil people in the Indian Army due to bravery of Bhil. Due to approach of the society, like present one, they are not able to assimilate into the main stream. So-called civilized society like in the present case has some grudge against those persons and many times they are branded as criminals.

11. In view of said problems which the Scheduled Tribe people are facing, it is the duty of State Government to see that there is social and economic development of these people. It is still less privileged class. If youngsters of such tribe are harassed like in the present case, some youngsters become fed up with approach of the society and they embrace naxalism. Such persons need to be given justice by the State and protection by police machinery. If they feel oppressed and suppressed, that will prove to be counterproductive and society will suffer more. This Court is sure that State has taken steps to sensitise public servants to help to understand tribal people. This Court hopes that in future Police will show more sensitivity and they will try to see that awareness is created in the people of other community about rights of tribal people and convince them about necessity to give them opportunity to assimilate in the main stream of the society. The present proceedings could have been dismissed only on technical points like such direction cannot be given by this Court. Only due to some orders made by this Court, it became necessary to record more observations so that such mistakes are not repeated. In the result, present proceeding is dismissed.

Sd./-

[**M.G. SEWLIKAR**]
JUDGE

Sd./-

[**T. V. NALAWADE**]
JUDGE