



W.P.(MD) No.26440 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.26440 of 2024
and
W.M.P.(MD) No.22387 of 2024**

- 1.Pandian
- 2.K.Nallu
- 3.M.Nainar
- 4.Thangaraj
- 5.Angammal
- 6.Pandian
- 7.Alagar
- 8.P.Murugan
- 9.Kalaialagan
- 10.Selvam
- 11.Akbar
- 12.M.Kamrutheen

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13.Jegan

14.Ramar

15.Thangamalai

... Petitioners

/vs./

1.The Union of India,
rep by its Secretary,
Ministry of Tribal Welfare,
New Delhi.

2.The State of Tamil Nadu,
rep by its Secretary to Government,
Forest Department,
Fort St.George,
Chennai 600 009.

3.The State of Tamil Nadu,
rep by its Secretary to Government,
Tribal Welfare,
Fort St.George,
Chennai 600 009.

4.The District Forest Officer,
Theni Forest Division,
Theni.

5.The Assistant Conservator of Forest,
NRT Nagar,
Theni, Theni District.



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6.The Rage Officer,
Cumbum Range,
Cumbum, Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the notice issued by the 4th respondent dated 25.09.2024 in C.No.5660/2023/D and quash the same as illegal and consequently direct the 4th Respondent to proceed as per the (Central Act 2 of 2007), Scheduled Tribes and other Traditional forest dwellers (Recognition Forest Rights) Act 2006 and as per the provisions of the said Act and in the light of order passed in W.P.(MD).No.8196 of 2015 and W.P.(MD).No.19390 and 19392 of 2010 and W.P.(MD).No.10625 of 2023.

For Petitioner : Mr.K.Surendran

For R1 : Mr.B.Rajesh Saravanan
Standing Counsel

For R2 to R6 : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

Heard Mr.K.Surendran, learned counsel for the petitioner, Mr.B.Rajesh Saravanan, learned Standing Counsel for the first respondent and Mr.J.K.Jeyaseelan, learned Government Advocate for the respondents 2 to 6.



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2. The challenge to the writ petition is a notice issued by the fourth respondent herein.

3. The contention of the petitioner is that the said notice firstly has not been addressed to the petitioners concerned and had been addressed only to the learned counsel on record of the petitioners in the earlier round of litigation. Therefore, they would submit that the said notice cannot be termed as a show cause notice as directed to be issued by this Court. They would further submit that this Court had directed that the respondents have to first verify as to whether the petitioners come under the category as defined under Section 2(o) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and thereafter consider their representation. If the petitioners in the said writ petition are qualified to be the Forest Dwellers as defined under the above provision, they may be given further audience and that such exercise shall be completed within a period of 3 weeks from the date of receipt of a copy of that order.



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4. It is the case of the petitioners herein that there has been no individual notice that has been served upon them by the fourth respondent and therefore, they cannot be compelled to appear for enquiry and they would further submit that the said notice is dated 25.09.2024 directing the petitioners herein to make a representation on or before 30.09.2024. They would further contend that to support the claim of the petitioners, they have to produce the documents that had been listed out in Rule 13 of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. Further, the petitioners are being illiterates, they have to take the assistance of a literate person to make a detailed representation to substantiate their right under the said Act. Since the said notice is bereft of any material facts, the same should be quashed and directions have to be issued to the respondents to comply with the orders passed by this Court.

5. On the other hand, Mr.J.K.Jeyaseelan, learned Government Advocate appearing on behalf of the respondents 2 to 6 would submit that the notice had been addressed to the learned counsel for the petitioners in the earlier writ petition on record, as the said counsel had been interacting with the Department



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on behalf of the petitioners. Further, he would submit that each of the petitioners have been served with the notice through the Forest Range Officer, Cumbum West Range, Cumbum and the petitioners' family members have acknowledged the receipt of such notices. The respondents have also filed a typed set of papers evidencing the receipt of such notices.

6. He would further submit that the Grama Sabha Committee as also the Sub Committee had already enquired into the status of the petitioners and had given a negative report on the claim of the petitioners. Further, he would submit that the petitioners without approaching the respondents by filing the representation had approached this Court by filing the present writ petition that too much after the time that had been granted for them to make the representation. Therefore, he would submit that there is no necessity to set aside the impugned notice.

7. I have considered the rival submissions made by the learned counsel on either side and also perused the records.



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8. By an order dated 06.06.2023, this Court in W.P.(MD) No.10625 of 2023 after considering the claims of the petitioners and after analyzing the provisions of Section 2(o) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 had directed the respondents to verify as to whether the petitioners would come under the provisions of Section 2(o) of the Act by considering their representation and if the petitioners are qualified to be the Forest Dwellers as defined under the said provision, further audience is to be given to the petitioners for grant of rights under the said Act.

9. From a reading of the order, it is clear that this Court had directed the petitioners to make the representation to the Authorities. It is the case of the respondents that since no representation had been received, the petitioners had been called for to make their representation on or before 13.09.2024. The learned counsel for the petitioners had contended that the time granted by the fourth respondent was too short and therefore, the petitioners had approached this Court.

10. I am not inclined to accept the contention of the petitioners that they



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have not been served with the notice. The notice had been served on the petitioners as evidenced from the typed set of papers filed by the respondents only calling upon the petitioners to submit their representation on a particular date to comply with the directions issued by this Court. Since the time granted by the fourth respondent was too short and the petitioners are also willing to comply with the notice by filing their representation before the fourth respondent, the time is granted till 13.12.2024 for the petitioners to submit the representation. If no representation is received by that date, the respondents are permitted to proceed in accordance with law.

11. With the aforesaid directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

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Internet : Yes / No

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Note : Issue order copy on 13.11.2024

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To

- 1.The Secretary to Government,
Forest Department,
Fort St.George,
Chennai 600 009.
- 2.The Secretary to Government,
Tribal Welfare,
Fort St.George,
Chennai 600 009.
- 3.The District Forest Officer,
Theni Forest Division,
Theni.
- 4.The Assistant Conservator of Forest,
NRT Nagar,
Theni, Theni District.
- 5.The Range Officer,
Cumbum Range,
Cumbum, Theni District.



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K.KUMARESH BABU, J.

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