

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 159 of 2020

With

R/WRIT PETITION (PIL) NO. 160 of 2020

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ACTION RESEARCH IN COMMUNITY HEALTH AND DEVELOPMENT
(ARCH)
Versus
STATE OF GUJARAT

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Appearance:

MR AJ YAGNIK(1372) for the Applicant(s) No. 1

for the Opponent(s) No. 2,3,4,5,6

ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP(99) for the
Opponent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 26/10/2020
COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1 We have heard Mr. Anand Yagnik, the learned counsel appearing for the writ applicant.

2 The writ applicant is a registered Charitable Trust. The Trust is rendering its services all across the State of Gujarat, more particularly, in the tribal districts past three decades. We take notice of the fact that some time in the year 2011-12, two writ petitions in public interest were filed by the writ applicant herein seeking appropriate directions with regard to the claim under the Forest Rights Act and Rules. Various other reliefs were also prayed for in those public interest petitions. This Court, vide the judgement and order dated 3rd May 2013, disposed of both the writ petitions filed in public interest by issuing the following directions:

“45. In such circumstances, we would like to dispose of both the petitions by issuing following directions which will protect the

*interest
of the claimants as well as the State.*

(I) The respondents are directed to strictly comply with Rule 13 and the amended Rule 12-A while disposing of a fresh claim application or a review application, which is already disposed of. In other words, even if a review application has been disposed of then in such circumstances the respondents shall reconsider the claim after complying with Rule 13 and Rule-12A of the Rules.

(II) According to the respondents there are 1,28,866 pending claims as on 7 th February 2013. We direct that all such claims be decided by strictly complying with Rule 13 and the amended Rule 12-A.

(III) The respondents are directed to take into consideration the following evidences while deciding the pending 1,28,866 claims.

(a) Field verification panchnamas along with photographs describing the physical attributes of the land indicating occupation prior to 2005 and 2007.

(b) Records of Civil and Criminal Court cases.

(c) Receipts or purchase agreement from erstwhile Princely States.

(d) Government records like above receipts issued by the Forest Department.

(e) Revenue Department receipts.

(f) Satellite imageries and/or maps prepared from imageries other than BISAG and/or maps prepared from other authorized imageries.

(g) The applications made in the past i.e. before 2005 for regularization of the claimed lands.

(IV) We direct the State Government to recall or withdraw the instructions as contained in Annexures K, L, M, N, P, S and T, in light of the amended Rule 12-A.

(V) The respondents shall assign cogent reasons for rejection or modification of the claim, according to the Government guidelines dated 12 th July 2012 and the amended Rule 12-A. The copy of such decision should be made available to the claimant at the earliest.

(VI) The respondents are directed to communicate the decision of rejection or modification of the claim, according to Government guidelines dated 12 th July 2012 and the amended Rule 12-A, so as to enable the claimants to approach the higher forum in accordance with law.

(VII) The respondents are directed to expedite the process of deciding the pending 1,28,866 claims as well as the process of recognition of community rights over forest resources and also expedite the process of conversion of forest settlement villages into revenue villages.

(VIII) The order of status quo passed by us in Civil Application No.5630 of 2012 shall continue till the disposal of 1,28,866 claims which will be in tune with the provisions of Section 4, Clause (5) of the Act.

46. We are of the view that the directions which we have issued should take care of the grievances voiced by the petitioners. The petitions along with Civil Application are accordingly disposed of with the above directions with no order as to costs."

3 We are sad to note that almost 18 years have elapsed, but, as pointed out by Mr. Yagnik, there is no further progress in the matter. The directions were issued with a view to see that the interest of the tribals across the State of Gujarat is protected.

4 In such circumstances referred to above, we direct the State Government to respond to both these petitions filed in public interest by the next date of hearing.

5 Mr. Dharmesh Devnani, the learned A.G.P. shall obtain appropriate instructions in the matter and revert to us on the next date of hearing with an appropriate report as regards the compliance of the directions issued by this Court referred to above as well as further progress in the matter.

6 List on 2nd December 2020.

(VIKRAM NATH, CJ)

(J. B. PARDIWALA, J)

DIPTI PATEL / CHANDRESH