

SC STAYS ORDER ON EVICTION OF TRIBALS, FOREST DWELLERS

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However, the court said “the mighty and the undeserving” would be shown no mercy.

The court has given the States four months to file affidavits responding to complaints that there was a high rate of rejection of claims, non-communication of rejection orders, unrealistic time lines in deciding claims, irregular holding of State-Level Monitoring Committee meetings, lack of support from the district administrations concerned in providing revenue or forest maps and rejection of claims despite incomplete or insufficient evidence. In fact, the Bench, also comprising Justices Navin Sinha and M.R. Shah, wanted to know whether tribals and other traditional forest dwellers (OTFDs) were ousted from forest lands on the basis of sketchy and incomplete information.

It acknowledged the need to delve into whether due process had been followed by the gram sabhas and the State authorities under the FRA before the claims for forest rights of the forest-dwelling Scheduled Tribes (FDSTs) and OTFDs were finally rejected.

The government, represented by Solicitor-General Tushar Mehta, submitted the order had affected a “large number of families.” The Centre had submitted that the States ought to first file proper affidavits on the procedure followed in the verification of forest rights claims before any such eviction.

“The eviction of the tribals may be withheld... the eviction of tribals, without such information, would cause serious prejudice to them, who have been residing in forests for generations... Many are poor and illiterate,” Mr. Mehta had submitted.

‘In a slumber?’

To this, Justice Mishra initially retorted by wondering whether the Centre had been in a “slumber for the past three years.” Observing that the February 13 order had only been a follow-up of the court’s order on January 29, 2016, which had also directed the eviction of encroachers on forest lands, Justice Mishra asked why there was no mechanism in place in the States, or at the Centre, to review the rejection orders.

Senior advocate Shyam Divan, for petitioner NGO Wildlife First, countered that lakhs of genuine claims were honoured under the FRA.

MoTA data

He also cited the data of the Ministry of Tribal Affairs (MoTA) up to November 2018, which showed that 42,24,951 claims from individuals and communities had been received till November 30 last year. Of this, 18,94,225 titles were distributed, while 19,39,231 claims were rejected.

The Ministry’s data, collated from inputs supplied by the States, revealed that titles had been distributed against 44.83% of the claims received.

To this, Justice Mishra said “are they [rejected claimants] really tribals or normal people encroaching on forest lands?”

Justice Sinha said the Rules under the 2006 Act comprehensively cover every stage of the process of verification of claims and the provisions were self-explanatory.

“This is a human problem more than a legal problem,” Mr. Mehta responded.

“Encroaching forest lands is a serious problem,” Justice Shah addressed Mr. Mehta.

“But forests and tribals are to coexist,” the Solicitor-General responded.

The Centre also submitted that the 2006 Act was a beneficial legislation which should be liberally construed in favour of the poor.

END

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