

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (C) No. 109 OF 2008**

**IN THE MATTER OF:**

Wildlife First

...Petitioners

VERSUS

Ministry of Forest and Environment & Ors

...Respondents

**COMPLIANCE AFFIDAVIT ON BEHALF OF STATE OF  
MADHYA PRADESH**

TO,  
THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES  
OF THE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE  
APPLICANT ABOVE NAMED

**The Respondent Humbly submits**

- 1)** The present Writ Petition was filed under Article 32 of the Constitution of India challenging the legality and Constitutional validity of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.
- 2)** That, the present affidavit is being filed by the State of Madhya Pradesh in compliance of order dated 28.02.2019 passed by this Hon'ble Court.

**3)** That, prior to the order of 28.02.2019, this Hon'ble Court vide its order dated 13.02.2019 had initially directed :

*"The Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court."*

**4)** That, after the said order, Union of India had filed application for modification praying State Governments to file detailed affidavits regarding the procedure followed at ground level and also submitting details of rejection of the various claims and has thus prayed for modification of the earlier order dated 13.02.2019.

**5)** That, this Hon'ble Court has taken a vigilant and serious view of the subject matter, and by its order dated 28.02.2019 modified its earlier order dated 13.02.2019, directed as follows:

*"It was pointed out that the State Governments have filed their data including how many claims have been rejected and the eviction orders that have been passed but they have not stated the procedure adopted for rejection orders/claims of the Tribals. It has not been placed on record as to who has rejected the claims and under which provision of law the eviction has to be made and who is the competent authority to pass such orders. It was also submitted that in most of the matters Tribals have not been served with the orders of rejection orders of their claims and it is also not clear whether the three tier Monitoring Committee constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 have supervised all these aspects.*

*Let the State Government also clarify what is the process to be followed for eviction after rejection orders have been passed."*

The present affidavit is being filed in compliance of the order passed by this Hon'ble Court to indicate the

procedure followed and steps taken by the State of Madhya Pradesh. It is submitted that this Hon'ble Court has directed the State Governments to file detailed affidavit specifically stating the following:

- a. The procedure adopted for rejection of claims;
- b. Statistical Data depicting the authorities who have rejected the claims;
- c. Procedure being followed *now* by the State Government after the passing of rejection orders.
- d. To place on record: all rejection orders, details of procedure followed and mainground for which the claims appear to have been rejected.
- e. Whether Tribals are being given an opportunity to adduce evidence? and
- f. Whether reasoned orders have been passed for such rejection?

**6)** That, the State of Madhya Pradesh has always been concerned about the rights of the forest dwellers and has taken various initiatives to protect their rights. Subsequent to the order the following factual points need to be taken note of :

1. Total No. of Claims- 624889

Schedule Tribes Claimant - 428612

OTFDs- 154229

CFR – 42048

2. Claims Sanctioned- 263916

Schedule Tribes Claimant - 230482

OTFDs- 3452

CFR-29882

3. Claims Rejected/Now under Review- 360877

Schedule Tribes Claimant - 198036

OTFDs- 150775

CFR -12066

4. Pending Claims : 96

ST-94

OTFD-2

CFR -0

A total number 3,60,877 (Three Lac Sixty Thousand Eight Hundred Seventy Seven) have been rejected.

**7)** That, after the order of 13.02.2019 and prior to the order on 28.02.2019 of this Hon'ble Court, the State Government convened a meeting of the State Level Monitoring Committee (SLMC) headed by the Chief Secretary on 27th February 2019 which examined the data regarding the reported cases of rejection in the State of Madhya Pradesh.

**8)** Representations were received from various public representatives and civil right groups, to the effect that many claims have been rejected without following due process of law and without giving any reasonable opportunity to the claimants to be heard. After going through the sample records of the cases which have been rejected, the committee found that no order of rejection has been formally communicated to the claimants.

**9)** Hence, it was decided that the rejected claims lying with District Level Committees (DLC) of different Districts in the State of M.P. needs to be reviewed and to be remanded to the Forest Right Committee Constituted under rule 3 (1) and Gram Sabha for re-examination and for adducing further evidence, if so required.

**10)** The decision of the SLMC dated 27th February 2019 was communicated to the District Collectors of all the 52 Districts of the State. The DLC meetings are being convened to suo moto review all the rejected cases with them and to transmit them onward to Gram Sabha for review and consideration afresh, where required, giving fresh opportunity to the claimants for being heard and adduce additional evidence.

A True Copy of the Communication dated 27.02.2019 is enclosed herewith as **ANNEXURE A** (Pages .....to .....)

**11)** That, the State Government has prepared a set of guidelines for the authorities under the act and following steps are being taken by the authorities in order to comply with the order of this Hon'ble Court:

- a. The Gram Sabhas will soon convene their formal meetings as per the provisions of Madhya Pradesh Panchayat Raj avam Gram Swaraj Adhiniyam 1993 and will review all the rejected claims and remand them back to village level forest rights committee

(FRC), which will restart the process of examining these claims.

- b. The FRC, where required, will make field visits, record the boundaries of the claimed land, give opportunities to the claimants to produce additional documents and other evidences and where required will also take proofs as provided in Rule 13 of the Forest Rights Rules of 2007.
- c. The State Government has also taken a decision to review the claims through an end-to-end computerised work flow web based software application named "Vanmitra" developed and customised for Madhya Pradesh by the Maharashtra Knowledge Corporation Ltd.
- d. Responsibilities of the FRC, Gram Sabha, SDLC and DLC will be performed through their respective logins available at all four levels. This software will bring complete transparency in the process of review of the claims. It will enable tracking of each claim to know its status. In "Vanmitra", the claimant has the facility to place any evidence or any additional fact in his login from any public kiosk or through the Gram Sabha login. The State government is in the process of providing digital "Tablets" for this specific purpose to all FRCs.

**12)** That, it is respectfully submitted that in order to complete the aforesaid process, the State Government would require a minimum period of 6

(six) to 12 (twelve) months. After 6 (six) months a Status Report could be filed by the State Government giving details of the review process of the rejected FRA claims.

**13)** That, the State Government has directed all its field level officers to ensure delivery of all papers and documents and proofs to the claimants so that they are not handicapped in adducing the evidence which they should furnish for their benefit. It is pertinent to note here that the process of filing petitions before the sub divisional level committee, if a person is aggrieved by the resolution of Gram Sabha and before the District level committee if a person is aggrieved by the decision of the SDLC has not percolated down to the claimants and hardly any claimant has resorted to these alternatives provided in the law. It is underlined here that Rule 14 and 15 make provisions for this and give a mandatory period of 60 days at each level and additional time for its process thereof which is again about 45 days.

**14)** That, the finality of these rejected claims can be attained only after these review applications are again finally considered by District Level Committee. As is explained herein above the whole process of reconsideration by way of review method is likely to take a minimum period of 6 months as the claimants have the right to move with a petition to the sub

divisional level committee and to the district level committee as and when they are aggrieved by their decisions.

**15)** It is again humbly submitted that the Forest Rights Act 2006, being a beneficial legislation meant for the poor tribals and marginalised sections of the society, the State Government is committed that no eligible claimant is left out or deprived of his rightful claim due to his inability and lack of capacity to adduce evidences and put his claim rightfully. At the same time the State Government is fully aware and committed that no wrong person is occupying the forest land illegally and no one is taking the advantage of encroaching the forest land in the guise of forest rights act.

**16)** That, the Respondent herein, on 04/07/2019, has issued a circular to all the respective authorities of each District of the State of Madhya Pradesh wherein the procedure which has to be followed in compliance of the order of this Hon'ble Court dated 28.02.019 and the steps which are mentioned in the present affidavit are detailed for the perusal of the Authorities, which shall be further undertaken at the Gram Sabha level.

A True and Translated Typed Copy of the circular dated 04/07/2019 issued by the State of Madhya



Pradesh is annexed herewith as **ANNEXURE B**

(Pages .....to .....)

By way of this circular issued to various District Collectors, the following guidelines have been given:

*1. All the dismissed claims be sent to Gram Sabha while convening a meeting by the District Level Committee, by passing proposal therein.*

*2. The Gram Sabha is to take decision for handing over the matter, in case re-examination is required, in their special meeting, to the Village Level Forest Officer Committee. The permission of Special Gram Sabha be issued under Section 6 (1) of Madhya Pradesh Panchayat Raj Act 1993 by the Competent Authority, Collector. The dates of the organizations of Special Gram Sabhas will be prescribed by the Administrative Department Panchayat and Rural Development Department, information of it shall be given separately.*

*3. The Web-based Portal "Vanmitra" has been developed by the Tribal Welfare Department for assistance of the Authority at each level for disposal and rehearing of the dismissed claims, which will be live for all the Districts, expeditiously.*

*4. The claimant will feed online his claim with evidence / documents through his Vanmitra software and the claim feed online by the claimant will be disposed off of by the Village Forest Officer Committee, Sub Divisional Committee and District Forest Officer Committee. There will remain transparency in disposal of the claims by this process, the situation of claims would be seen live, in case of allowing the claim, Online Forest Rights Letter will be issued and in case of dismissal of the claim, those reasons, through which the claim has been*

*dismissed, reason wise information will be received to the claimant online itself.*

*5. Each claimant whose, claim has been dismissed as to upload evidence and his claim in the Vanmitra Software, at nearest internet cafe, which is supportive for it. The Kiosk in charge will receive the amount to be prescribed by the Government for entry of each claim from the claimant and its fulfilment will be done through the concerned Gram Panchayat by the Government in accordance with the prescribed fees, by the claimant.*

*6. In this manner, the uploaded claim of each village will be produced from login of the Forest Officer Committee. It is important that for disposal of each dismissed claim at the forest Officer Committee, full appropriate opportunity of hearing will be given to the Applicants and that furthermore, opportunity of producing Additional Documents be provided to them. They will have liberty to bring additional facts on record.*

*7. The Village Employment Assistant of the Gram Panchayat has been nominated as Special Assistant for assistance of the Forest Right Committee at the Madhya Pradesh Government Panchayat and Rural Development Department. Therefore, they shall help and assist these deprived Applicants for getting received their rights. Be organized a detailed training of overall Officer / Employees joined with this process at the District Level. Any recommendation or decision may not be taken to dismiss the claims / Application of any claimant only on the technical grounds or due to discrepancies in the Application / Claim and it shall also be ensured that the claimants shall not be deprived from their legal rights due to these technical reasons.*

*8. Such provisions have been provided under Rule 14 and 15 of the Forest Right Rules 2008 that if any*

*Applicant is agreed from any Order / Resolution of Gram Sabha, then, he may file a Petition before the Sub Divisional Level Committee. Similarly, any party being aggrieved agreed and dissatisfied from any Decision / Recommendation of the Sub Divisional Level Committee, may file Petition before the District Level Committee. In the previous process, use and exercise of Quasi-judicial in above type of proceedings at the State Level has not come into light by any party. It indicates towards this fact that these claimants are not aware from this type of legal right. Therefore, it is extremely necessary to personally disclose the claimants about each dismissal of the Application and its propagation. For it, the officer should keep in mind the minimum time limit of the rules, at the time of disposal of the claim.*

- 17)** That, as directed by this Hon'ble Court, the District Wise List of Rejected Cases in a tabular form is annexed here with as **ANNEXURE C** (Pages .....to .....)
- 18)** That, this Hon'ble Court has directed the States to file the copy of the orders of the claims which were rejected by the Authorities under the Act. It is submitted that the Respondent herein is annexing the order passed by the Authorities rejecting the claims of the One District of the State of Madhya Pradesh. A total number 3,60,877 (Three Lac Sixty Thousand Eight Hundred Seventy Seven) have been rejected and they would in total amount to thousands of orders and pages. In order to comply with this order,

a sample of rejections from One District is being filed before this Hon'ble Court.

A True Copy of the sample orders passed by one District, rejecting the claims is annexed and is collectively being filed as a separate annexure in a separate volume as additional document. The documents are over a thousand pages and indicates the work ahead for the State Government.

- 19)** That, the State of Madhya Pradesh is committed to comply with the orders of this Hon'ble Court ensure the rights of the Tribals and OTFDs and is working to ensure that the rights granted to them under the Act of 2006 which is also a key to Food Security shall not be diluted in any manner. Moreover, the State Government should be given time, to implement the law in letter and spirit and sensitize/train competent authorities, specially SDLCs and DLCs, regarding compliance of natural justice and pro-active facilitation of FRCs/Gram-sabhas with access to official records. With this end in view mandated the Forest Department and Revenue Department to publish all records such as fine receipts imposed by forest department for cultivation/plantation, official records available of encroachers, land revenue receipts, certificates of possession of said land, official panchnama etc as part of pro-active disclosure under Section 4 of the RTI Act.

## **Backdrop of the Act and its Objectives**

**20)** That, having dealt with the compliance aspects of the orders of this Hon'ble Court, the Respondent State herein, wants to bring certain submissions before this Hon'ble Court depicting the background and scheme of the Act of 2006. It is submitted that the aforesaid Act and Rules were passed by the Parliament with an object to recognise the rights in "Forest dwelling Scheduled Tribes" (FDST) and "other traditional forest dwellers" (OTFDs) who have been residing in forests for generations but whose rights have not been recorded.

**21)** That, the Act recognizes and vests the forest rights and occupation in Forest land in FDST and OTFD who have been residing in such forests for generations. The Act also establishes the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance of FDST and OTFD. It strengthens the conservation regime of the forests while ensuring livelihood and food security of the FDST and OTFD. Moreover, it seeks to rectify colonial injustice to the FDST and OTFD who are integral to the very survival and sustainability of the forest ecosystem.

**22)** At present the State of Madhya Pradesh has very high forest cover in the country with 12.38 % of area of Madhya Pradesh being under forest cover. It becomes the

duty of the State of Madhya Pradesh to record the rights of the Tribals who are to be statutorily protected under the Act and Rules, who are inhabitants of these areas for generations.

**23)** That, The Scheduled Tribes (Recognition of Forest Rights) Act, 2006('Act') was passed to fulfil the need for a comprehensive legislation to give due recognition to the forest rights of tribal communities. These rights were not recorded while consolidating state forests during the colonial period as well as in independent India. Recognizing the symbiotic relationship between tribal people and forests, the National Forest Policy, 1988, made provisions to safeguard the customary rights and interests on forest land of Tribals.

**24)** That, the Respondent herein wants to briefly narrate the scheme of the Act which is as follows:

- a. Section 2(c) defines FDSTs as the members or community of the Scheduled Tribes who primarily reside in and who depend of the forests or forest land for bona fide livelihood.
- b. Section 2(o) defines OTFDs as any member or community who has for at least 3 (three) generations prior to the 13<sup>th</sup> day of December 2005, primarily resided in and who depend on the forest or forest land for bona fide livelihood needs.
- c. Section 3 of the act defines the rights of FDSTs and OTFDs such as right to hold and live on forest land;

community rights of nistar; right to collect forest produce; right to access biodiversity etc.

- d. Section 4 of the Act vests the rights available in Section 3 to FDSTs and OTFDs. Section 5 of the act enumerates the duties of the holder of forest right like duty to protect wildlife, forest and biodiversity etc.
- e. Section 6 provides the procedure and vesting of forest rights. Section 6(1) provides that Gram Sabha shall be the authority to initiate the process of determining the nature and extent of forest rights of FDST and OTFDs by receiving claims consolidating and verifying them and preparing a map delineating the area of each recommended claim. The Gram Sabha would then pass a resolution to that effect and forward the copy of the same to the Sub-Divisional Level Committee (SDLC).
- f. Under Section 6(2) any person aggrieved by the resolution of Gram Sabha may prefer a petition before the Sub-Divisional Level Committee, which shall consider and dispose of the petition.
- g. Under Section 6(4) any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition before the District Level Committee (DLC), which shall consider and dispose of such petition. Under Section 6(6), the decision of the District Level Committee is final and binding.

**25)** That, various authorities have been established under the Act and different roles have been assigned to them under the Act and under the rules framed under the Act.

- a. The Gram Sabha, a village assembly of all adult members of a village, shall have the authority to initiate the process of determining the nature and extent of individual or community forest rights that may be given to FDSTs within the local limits of its jurisdiction under this Act. The Gram Sabha is empowered to receive claims, consolidate and verify them, and prepare a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights. It would then pass a resolution to that effect and forward a copy to the Sub-Divisional Level Committee (SDLC).
- b. The SDLC, which shall be constituted by the State Government, would examine the resolution passed by the Gram Sabha and prepare the record of forest rights. It would then be forwarded to the District Level Committee (DLC) through the Sub-Divisional Officer for a final decision. The DLC would be the final authority to approve the record of forest rights prepared by the SDLC.
- c. A State Level Monitoring Committee would be formed to monitor the process of recognition and vesting of forest rights. The Committee would submit returns and reports to the nodal agency (the ministry



dealing with Tribal Affairs). The SDLC, DLC and the State Level Monitoring Committee would consist of officers.

- d. If a person is not satisfied by the ruling of the Gram Sabha, he can file a petition to the SDLC who would consider and dispose of such petition. If a person is not satisfied by the decision of the SDLC, he can petition to the DLC within 60 days of date of decision of the SDLC. The DLC's decision would be final and binding.

**26)** That keeping in view the historical injustice and marginalized nature of tribal communities/OTFDs, illiteracy and information asymmetry and their critical dependency on land, forest resources for survival, the State Government is also planning to allow the communities to submit their claims and exercise their rights under the law. The legislature never intended to have a sunset clause in the law and hence the same should not be arbitrarily imposed by Government agencies.

**27)** The present affidavit is filed in compliance with the directions of this Hon'ble Court and the State of Madhya Pradesh is committed to abide by the orders of this Hon'ble Court and to assist this Hon'ble Court in all fact finding.

DRAWN ON: /07/2019  
FILED ON: /07/2019

FILED BY:  
HARSH PARASHAR  
ADVOCATE FOR THE RESPONDENT

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**I.A. No. .... /2019**  
**WRIT PETITION (C) No. 109 OF 2008**

**IN THE MATTER OF:**

Wildlife First ...Petitioners

VERSUS

Ministry of Forest and Environment & Ors ...Respondents

**APPLICATION FOR EXEMPTION FROM FILING OFFICIAL  
TRANSLATION OF ANNEXURES**

TO,  
THE HON'BLE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUDGES  
OF THE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE  
APPLICANT ABOVE NAMED

**The Respondent Humbly submits**

- 1) The present Writ Petition was filed under Article 32 of the Constitution of India challenging the legality and Constitutional validity of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007. The present affidavit is being filed in compliance with the orders of this Hon'ble Court.

- 2) That, the detailed facts and grounds are mentioned in the Additional Affidavit and the same are not repeated here for the sake of brevity.
- 3) That, it is submitted that Annexures A, B and C filed by the Applicant along with accompanying application are in Hindi vernacular. The Applicant is filing the corrected true translation of the same and seeks exemption from filing Official Translation of the same. That, the Applicant craves leave to file Official Translation of Annexures A, B and C and when directed by this Hon'ble Court.
- 4) The Applicant has a prima facie case in their favour and the balance of convenience is also in favour of the Applicant/Respondent. The Applicant/Respondent would be subject to irreparable loss and injury if the present application is not allowed.
- 5) An order allowing the present application would meet the ends of justice.

#### **P R A Y E R**

In the facts and circumstances the above named Applicant/Respondent respectfully prays that this Hon'ble Court may be graciously pleased to: -

- A. Exempt the Applicant from filing Official Translation of the documents enclosed as Annexures A, B and C and;
- B. Pass such other and further order(s) as may deem fit in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY  
BOUND SHALL EVER PRAY.

DRAWN ON:  
FILED ON:

FILED BY:  
HARSH PARASHAR  
ADVOCATE FOR THE RESPONDENT