

KARNATAKA LOKAYUKTA

No.Compt/Uplok/BD-459/2010/ARE-6

M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bangalore, Dt. 27/02/2018.

**REPORT UNDER SECTION 12(1) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Complaint filed by Sri. Veerendra Patil –
Advocate, Talaguppa village in Soraba
Taluk of Shimoga District.

On the basis of complaint filed by complainant Sri. Veerendra Patil – Advocate, Talaguppa village in Soraba Taluk of Shimoga District against Sri. Huchappa- Forester, Annavatti Division, Talaguppa Village, Gendla Post, Soraba Taluk, Shimoga District ant Sri. R.D.Naik – ACF, Soraba District Shimoga District alleging encroachment of forest land by some of the villagers and respondents are not taking any action, a case was registered by invoking powers vested u/s. 9 of the Karnataka Lokayukta Act.

2. After registering the case, comments from the respondents was called. Accordingly, the respondent submitted his comments. Thereafter, rejoinder from the complainant was secured. Thereafter, a scrutiny note dated 01/08/2013 was prepared by ARLO-1. As per that note, it was noticed that one Basavanthappa got dug bore well in the forest land and after obtaining electricity sanction from the KEB, got installed pumpset. Further, one Sri.G.V.Ramesh and Hiriyananna have

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also encroached about 25 acres of forest land and grown Arekanut and coconut trees and also got constructed residential houses. It is also noticed that illegal grants have been made pertaining to forest land. The RFO, Anavatti range has registered cases against 20 persons. As per the said note the Deputy Commissioner, Shimoga and Tahasildar, Soraba were asked to take steps to clear the encroachments made over forest land bearing Sy.No. 20 of Talaguppa Village. The Tahasildar, Soraba appeared in person on 21/11/2013 and submitted report along with RTC and CD. The RFO, Anavatti range was also appeared on 10/12/2013 and submitted the report. As per the said reports, 24 persons have been evicted on 02/08/2012 and 03/08/2012 from re-survey No.20 of Talaguppa village, with the help of Revenue Department, forest Department and Police Department. The reports also reveal that by using JCB machine they have planted forest tree species in the said area.

3. A final scrutiny note dated 04/09/2014 was put up after collecting rejoinder from the complainant. As per the said FSN still 6 persons have been in unauthorized occupation of the forest land in re-survey No.20 of Talaguppa, to an extent of 22 acres. The eviction of the said 6 persons was in progress and ACF has issued final eviction notice dated 23/01/2014 to evict the said 6 persons, as per sec.64A of Karnataka Forest Act 1963. Thereafter, several reminders were issued to the RFO,



Anavatti to take steps for eviction of the said 6 persons. Even today the said 6 persons are in unauthorized occupation of forest land and the forest department has been taking action to evict the said 6 persons.

4. It is seen that the ACF, Soraba sub-division has written a letter stating that the said 6 persons filed applications under the provisions of **Scheduled Tribes and Forest Dwellers Act 2006 and Rules 2009** for regularization of their unauthorized Occupation. As per the subsequent direction given to ACF, he appeared on 19/02/2018 and submitted letter along with the list of 15 persons who filed applications in respect of Sy.No.20 and Sy.No.6 which comes under Anavatti range. On that day, he has given statement before me stating that he will collect further information from the Taluk Social Welfare Officer and submit the further report. Accordingly, he submitted report dated 22/02/2018, on 23/02/2018 through e-mail. It is stated that in respect of these 6 persons i.e., M.Chandrappa, H.Giriyanna, Sri. Malathesh, Sri.Sridhara, Sri. T.B.Ramesh and Sri.Omkarappa. GPS survey has been conducted and submitted the applications to Social Welfare Department on 17/02/2018. It is stated that said applications will be placed before sub-divisional committee headed by Assistant Commissioner of Sagar sub-division and the said committee will take a final decision at the earliest. The said report is annexed with list of applications filed in respect of Soraba,

Anavatti and Sidalakoppa. The said list reads as under.

ಅನುಸೂಚಿತ ದುಡಕಟ್ಟು ಹಾಗೂ ಇತರ ಪಾರಂಪರಿಕ ಅರಣ್ಯ ವಾಸಿಗಳಿಗೆ ಅರಣ್ಯ ಹಕ್ಕು ಮಾನ್ಯ ಮಾಡುವ ಕುರಿತು ಸ್ವೀಕೃತಿ ಅರ್ಜಿ ಹಾಗೂ ವಿಲೆ ವಿವರ ಪಟ್ಟಿ.

ಕ್ರ.ಸಂ	ವಲಯ	ಗ್ರಾಮ ಅರಣ್ಯ ಸಮೀಪಿಗಳಲ್ಲಿ ಸ್ಥಿರಿಸಿದ ಅರ್ಜಿಗಳು	ಬಿ.ಪಿ.ಎಸ್. ಸರ್ವೆ ಕಾರ್ಯಕ್ಕೆ ಅರಣ್ಯ ಇಲಾಖೆ ಕಳುಹಿಸಿದ ಅರ್ಜಿಗಳು	ಬಿ.ಪಿ.ಎಸ್. ಸರ್ವೆ ಮಾಡಲಾದ ಕಡತಗಳು	ಬಿ.ಪಿ.ಎಸ್. ಸರ್ವೆ ಕಾರ್ಯ ಪ್ರಗತಿಯಲ್ಲಿರುವ ಕಡತಗಳು	ಹಕ್ಕು ಪತ್ರ ವಿತರಿಸಿದ ಅರ್ಜಿಗಳ ಕಡತ			ಪಿಂಚೂಣಿಯಾದ ಅರ್ಜಿಗಳ ಕಡತ			ವಿಲೆಗೆ ಬಾಕಿ ಇದ್ದ ಅರ್ಜಿಗಳ ಕಡತ	ಷರಾ
						ಪರಿಶೀಲನೆ ಪರಿಗಣನೆ (ಎಸ್.ಬಿ)	ಸಮೂಹದಾಯ	ಇತರ	ಪರಿಶೀಲನೆ ಪರಿಗಣನೆ (ಎಸ್.ಬಿ)	ಸಮೂಹದಾಯ	ಇತರ		
1	2	3	4	5	6	7	8	9	7	8	9	10	11
1	ಸೊರಬ	8608	79	79	0							8529	ವಿಲೆಗೆ ಬಾಕಿ ಇದ್ದ ಅರ್ಜಿಗಳು ಗ್ರಾಮ ಅರಣ್ಯ ಹಕ್ಕು ಸಮಿತಿಯಲ್ಲಿ ಇರುತ್ತವೆ.
2	ಅನವಟ್ಟಿ	6622	2432	538	1894	236	0	0	374	0	0	6084	
3	ಶಿರಾಳಕೊಪ್ಪ	7077	1412	50	1362							1362	
	ಒಟ್ಟು=	22307	3923	667	3256	236	0	0	374	0	0	15975	

ಷರಾ : ಶಿರಾಳಕೊಪ್ಪ ವಲಯ, ಸೊರಬ ಅರಣ್ಯ ಉಪ ವಿಭಾಗದ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ದುಡಕಟ್ಟು. ಸದರಿ ವಲಯ ಶಿರಾಳಕೊಪ್ಪ ಉಪ ವಿಭಾಗದ ವ್ಯಾಪ್ತಿಗೆ ದುಡಕಟ್ಟು.

- As per the said report, in respect of Anavatti range, 6,620 applications were received. Out of that 2432 applications were submitted for GPS survey and out of that pertaining to 538 applications GPS survey has been conducted and the GPS survey is in progress in respect of 1894 applications, 6084 applications are still pending. Further, in respect of other two ranges and including Anavatti range total 15,975/- applications are still pending.
- It is pertinent to note that even though the central government has enacted **Scheduled tribe and other traditional Forest Dwellers(recognition of Forest Rights) Act in the year 2006 and made rules in 2012**, certain conditions have been imposed in the said Act for considering the application for regularization of unauthorized occupation in respect of forest land. The act is mainly intended to protect the rights of scheduled tribes and other traditional forest dwellers. The

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other persons cannot take undo advantage of the said act to file applications for regularization of the unauthorized occupation. Here in this case, the other 6 persons i.e., Sri.T.G.Ramesh, Sri. Hiriyanappa, Sri. Omkarappa, Sri. Chandrappa, Sri. Malathesh and Sri. Sridhar are not eligible to seek confirmation of their unauthorized occupation in respect of sy.no.6 and 20 of talaguppa village. Under the guise of filing the applications for regularization of unauthorized occupation in respect of the forest land under the said act, the authorities concerned cannot postpone the eviction. As soon as the village committee receives the application from any person. They will have to examine as to whether they are eligible to file the application or not. They will have to reject the application immediately if they come to know that they are not eligible. The sub-divisional committed headed by the Assistant Commissioner shall take immediate steps to dispose off the applications and to pave the way to the forest department to take steps for the eviction of unauthorized occupants from the forest land. But it is seen that the committees are not taking the matter very seriously, having regard to the scope of forest act. They are unnecessarily wasting the time while disposing of the said applications and thereby allowing the unauthorized persons to enjoy the forest land and thereby failed to protect forest land for balancing the ecology.

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7. The forest Act has been enacted with aim and object of protecting the forest from any encroachment. The forest officers being the custodian of forest lands within their jurisdiction are duty bound to protect the forest from any encroachment. But here in this case, the respondent the then forester and other officers allowed some persons to encroach the forest land and even to allow one person to dig bore well and to get electricity supply to install pump set. Several persons have been allowed to grow Arecanut and coconut trees in the encroached forest land. **The Karnataka Forest Act 1963** has been enacted with an object to prevent private owners from recklessly exploiting the tree growth and forest produced with the sole idea of making immediate and huge profits, without regard to ensuring sustained yield for the benefit of the community in future. There is power to assume management of forest in certain circumstances.
8. Sec. 64-A deals with penalty for unauthorisedly taking possession of land constituted as reserved forest. Any person unauthorisedly occupying any land in reserved forest may, without prejudices to any other action that may be taken against him under any other provision of this act or any other law for the time being in force, be summarily evicted, by a forest officer not below the rank of an assistant conservator of Forest and any crop including trees raised in the land and any building or other constructions erected thereon shall, if not



removed by him with in such time as the forest officer may fix, be liable to forfeiture.

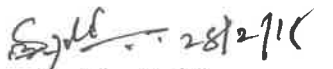
9. Provided that before evicting a person under this sub section he shall be given a reasonable opportunity of being heard.
10. Here in this case final notice has already been issued to be above said six persons on 23/01/2014. But, thereafter they have not been evicted on the ground that they have filed applications and that the scheduled Tribes and other traditional forest dwellers act 2006. As could be seen from the records there is a prima facie material to conclude that the above said six persons are not eligible to seek regularization of their unauthorized occupations under the said act or any other law. Therefore, there is no impediment for the Assistant Commissioner, Sagara Sub Division to take immediate steps to dispose of their applications and further steps to evict the above said persons or any other persons who are in unauthorized occupation of any area of forest land within that jurisdiction. Under guise of receiving applications from several persons by the committee as per the said act, the authorities cannot allow the unauthorized persons to cultivate the forest land. The forest land is meant for maintaining the ecological balance. Without the forest a man or an animal or any bird cannot get oxygen. Getting oxygen to live is a human right, as per sec. 2 of Human Rights Act. Allowing the persons to encroach the forest land by any authority amounts to

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depriving the human kind, animals and birds of their human rights and right to live. Therefore, the Revenue and the Forest Departments cannot close their eyes and show their inability to take action to evict the unauthorized occupants from the forest land. It is their primary duty to protect the forest land for the future.

11. In view of the above facts circumstances of this case this necessary to direct the Revenue, Forest and Social Welfare Department to take immediate steps to dispose of the pending applications in respect of the forest lands and to take steps for eviction of unauthorized occupants from the forest land.
12. Accordingly, the recommendation is made u/s 12(1) of K.L. Act to the competent authority to take immediate steps to dispose of the pending applications in respect of forest lands and to take steps for eviction of unauthorized occupants from the forest land.
13. Further, as per Section 12(2) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate the action taken or proposed to be taken on this report within one month from the date of receipt of this report.

Copies of connected records are enclosed.


(Justice Subhash B. Adi)
Upalokayukta,
State of Karnataka.