

National Human Rights Commission
Manav Adhikar Bhawan Block-C, GPO Complex, INA,, DELHI -110023

Dilip Kanti Chakma,
 C3/441, Top Floor, Janakpuri, New Delhi WEST DELHI , DELHI
Dated: 08/06/2020

Dear Dilip Kanti Chakma,

The Commission has received your complaint and it has assigned diary number as **7543/IN/2020** with the following details:-

Complainant Details

Name:	Dilip Kanti Chakma		
Mobile:	7406314043	Email:	indigenoulawyers@gmail.com
Address:	C3/441, Top Floor, Janakpuri, New Delhi		
District:	WEST DELHI	State:	DELHI

File Uploaded successfully (Gujarat-eviction of STs.pdf)

Victim Details

Victim Name:	Tribals of six villages in Gujarat	Gender:	Both
Religion:		Cast:	Scheduled Tribe
Address:	Garudeshwar taluka, Narmada district, Gujarat		
District:	NARMADA	State:	GUJARAT

Incident Details

Incident Place:	Kevadiya PS, Garudeshwar taluka	Incident Date:	27/05/2020
Incident Category:	ALLEGED POLICE/ADMINISTRATION HARASSMENT/ATROCITIES ON DISPLACED PERSONS		
Incident District:	NARMADA	Incident State:	GUJARAT

Is it filed before any Court / State HRC	No
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Incident Details:	<p>The Indigenous Lawyers Association of India (ILAI) is writing to seek the urgent intervention of the National Human Rights Commission (NHRC) against (i) forcible eviction of 5,000 Schedule Tribes (ST) from six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora under Kevadiya police station under Garudeshwar taluka in Narmada district of Gujarat and (ii) denial of compensation and violations of rights of the displaced STs provided under Articles 19, 21 and 46 of the Constitution of India and provisions of the Panchayat Raj (Extension to Scheduled Areas) Act 1996. 1. DETAILS OF THE INCIDENT In May 2020, the Sardar Sarovar Narmada Nigam Limited (SSNNL), a state-owned entity, started erection of permanent fencing around the land near the Statue of Unity covering six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora. The triblas have alleged that the move to fence their lands was yet another ploy to grab their land for tourism-related projects related to the monument. On 27 May 2020, the police detained 20 tribals from Kevadiya village after the tribals protested against the fencing. Around 5,000 tribals living in these villages are being forcibly evicted from their ancestral lands without following the due process of law as explained below.</p> <p>1.1 Non payment of compensation to tribal landowners after lands were acquired for purposes of constructing a colony under the Narmada River Project Scheme (NRPS) and for construction of canal and road During 1961-63, Gujarat government through the Narmada district administration started acquisition of the ancestral lands belonging to the above mentioned six villages of Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora under Kevadiya police station in Narmada district under the Land Acquisition Act, 1894 for the purposes of constructing a colony under the NRP Scheme and for construction of canal and road. During 1963-65, awards were passed under the 1894 Act ordering payment of compensation to the affected land owners. Though awards were passed under the 1894 Act ordering payment of compensation to the affected land owners, the awarded compensation was not actually remitted/paid to the respective landowners. Only some nominal compensation</p>
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towards damage caused to the crops due to movement of heavy vehicles used during the construction of the Sardar Sarovar Dam was paid to affected tribal landowners in the said six villages. 1.2 Acquired land never taken into possession by the acquiring authority nor was it utilised for the purpose for which it was acquired. The acquiring authority i.e. the Gujarat government has not taken the said acquired land in its possession during the last 57 years and the affected tribal land owners were in peaceful possession and enjoyment of the same until 2020 when the SSNNL started putting up fence around the land covering six villages near the Statue of Unity. Further, since the acquired land had not been taken into possession by the acquiring authority, the acquired land was never utilized for the purpose for which it was acquired and as such, the said land never vested in the original land owners. 1.3 Land acquisition process under the Land Acquisition Act, 1894 has lapsed. Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) provides that where an award under the said section 11 of the 1894 Act had been made five years or more prior to the commencement of the RFCTLARR Act, 2013 but the physical possession of the acquired land has not been taken or the compensation was not paid the said proceedings shall be deemed to have lapsed and the appropriate Government, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of the RFCTLARR Act, 2013, if it chooses to acquire any such land. In the present case, neither compensation was paid for the acquired land nor the acquired land was taken into possession by the acquiring authority during the last 58 years. Therefore, the land acquisition proceedings initiated under the 1894 law has lapsed and the acquiring authority has to initiate land acquisition proceedings afresh in accordance with the provisions of the RFCTLARR Act, 2013.

INDIGENOUS LAWYERS ASSOCIATION OF INDIA (ILAI)

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By HRCNet Portal

08 June 2020

To,
The National Human Rights Commission
Manav Adhikar Bhawan
Block-C, GPO Complex, INA
New Delhi – 110023

Subject: Complaint against (i) forcible eviction of 5,000 Schedule Tribes (ST) from six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora under Kevadiya police station in Narmada district of Gujarat and (ii) denial of compensation and violations of rights of the displaced STs provided under Articles 19, 21 and 46 of the Constitution of India and provisions of the Panchayat Raj (Extension to Scheduled Areas) Act 1996

Dear Sir,

The Indigenous Lawyers Association of India (ILAI) is writing to seek the urgent intervention of the National Human Rights Commission (NHRC) against (i) forcible eviction of 5,000 Schedule Tribes (ST) from six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora under Kevadiya police station under Garudeshwar taluka in Narmada district of Gujarat and (ii) denial of compensation and violations of rights of the displaced STs provided under Articles 19, 21 and 46 of the Constitution of India and provisions of the Panchayat Raj (Extension to Scheduled Areas) Act 1996.

1. DETAILS OF THE INCIDENT

In May 2020, the Sardar Sarovar Narmada Nigam Limited (SSNNL), a state-owned entity, started erection of permanent fencing around the land near the Statue of Unity covering six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora.

The tribals have alleged that the move to fence their lands was yet another ploy to grab their land for tourism-related projects related to the monument. On 27 May 2020, the police detained 20 tribals from Kevadiya village after the tribals protested against the fencing. Around 5,000 tribals living in these villages are being forcibly evicted from their ancestral lands without following the due process of law as explained below.

1.1 Non payment of compensation to tribal landowners after lands were acquired for purposes of constructing a colony under the Narmada River Project Scheme (NRPS) and for construction of canal and road

During 1961-63, Gujarat government through the Narmada district administration started acquisition of the ancestral lands belonging to the above mentioned six villages of Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora under Kevadiya police station in Narmada district under the Land Acquisition Act, 1894 for the purposes of constructing a colony under the NRP Scheme and for construction of canal and road. During 1963-65, awards were passed under the 1894 Act ordering payment of compensation to the affected land owners.

Though awards were passed under the 1894 Act ordering payment of compensation to the affected land owners, the awarded compensation was not actually remitted/paid to the respective landowners. Only some nominal compensation towards damage caused to the crops due to movement of heavy vehicles used during the construction of the Sardar Sarovar Dam was paid to affected tribal landowners in the said six villages.

1.2 Acquired land never taken into possession by the acquiring authority nor was it utilised for the purpose for which it was acquired

The acquiring authority i.e. the Gujarat government has not taken the said acquired land in its possession during the last 57 years and the affected tribal land owners were in peaceful possession and enjoyment of the same until 2020 when the SSNNL started putting up fence around the land covering six villages near the Statue of Unity. Further, since the acquired land had not been taken into possession by the acquiring authority, the acquired land was never utilized for the purpose for which it was acquired and as such, the said land never vested in the original land owners.

1.3 Land acquisition process under the Land Acquisition Act, 1894 has lapsed

Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR) provides that where an award under the said section 11 of the 1894 Act had been made five years or more prior to the commencement of the RFCTLARR Act, 2013 but the physical possession of the acquired land has not been taken or the compensation was not paid the said proceedings shall be deemed to have lapsed and the appropriate Government, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of the RFCTLARR Act, 2013, if it chooses to acquire any such land.

In the present case, neither compensation was paid for the acquired land nor the acquired land was taken into possession by the acquiring authority during the last 58 years. Therefore, the land acquisition proceedings initiated under the 1894 law has lapsed and the acquiring authority has to initiate land acquisition proceedings afresh in accordance with the provisions of the RFCTLARR Act, 2013.

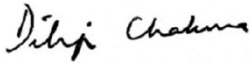
2. PRAYERS

In view of the above submissions, the Indigenous Lawyers Association of India requests the NHRC to consider this complaint as a matter of urgent priority and issue the following directions:

- Direct the State of Gujarat and the Sardar Sarovar Narmada Nigam Limited to immediately stop any kind of works including erection of fencing around the land covering six villages namely Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora near the statue of unity in Narmada district;
- Direct the State of Gujarat to ensure that the tribal villagers of Kevadiya, Vagadiya, Navagam, Limbdi, Kothi and Gora are not forcibly evicted from their respective villages without following the due process of law or harassed, intimidated and detained by police for opposing forcible eviction and further release all the detainees (about 20 tribals) at the earliest;
- Direct the State of Gujarat to initiate fresh land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for acquisition of lands of the tribals in the above mentioned six villages; and
- Take any other measures as the NHRC deems fit and proper.

With kind regards,

Yours sincerely



Dilip Kanti Chakma
President