

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**Writ Petition No.2133 of 2009**

**Dated 18<sup>th</sup> April, 2011**

**Between:**

Podium Devaiah and others

**...Petitioners**

**And**

The Government of India, rep.by Ministry for Tribal Welfare, New Delhi  
and others

**...Respondents**

**Counsel for the petitioners: Sri Mummaneni Srinivasa Rao**

**Counsel for respondent Nos.2 to 7: AGP for Forests**

**Counsel for respondent No.1: None appeared**

**The Court made the following:**

**ORDER:**

At the interlocutory stage, the writ petition is taken up for hearing and disposal with the consent of the learned counsel for the parties.

The petitioners claim to belong to Scheduled Tribe. They filed the writ petition for a mandamus to declare the action of the respondents in trying to dispossess them from the forest lands situated in Chukkalapadu (unsurveyed and unrecognised village) without passing orders on their applications, dated 01.12.2008 filed for granting forest rights under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules, 2007 made thereunder (for short 'the Act' and 'the Rules' respectively) as illegal and arbitrary.

In the counter affidavit filed by respondent No.4, it is *inter alia* stated that the petitioners belong to Guttikoyas community, which is recognised as Scheduled Tribe by the Government of Chattisgarh and that the said community is not one of the recognised Scheduled Tribe

communities in the State of Andhra Pradesh and therefore they are not entitled to invoke of the provisions of the Act for recognition of forest rights.

The question whether the petitioners can be recognised as Scheduled Tribe community in the State of Andhra Pradesh or not needs to be adjudicated by the competent authority, namely, the Forest Rights Committee, shown as respondent No.3, in the writ petition. The fact that the petitioners submitted their applications under the provisions of the Act is not disputed by the respondents. If the competent authority felt that the petitioners are not eligible for recognition of forest rights, it can pass an appropriate order on the petitioners' applications. But, on the purported ineligibility of the petitioners, the competent authority cannot keep the applications pending.

As rightly pointed out by Sri Mummaneni Srinivasa Rao, learned counsel for the petitioners, Chapters III and IV of the Act deal with recognition of the forest rights in favour of the Scheduled Tribes and other Traditional Forest Dwellers. Therefore, it is incumbent upon the competent authority to dispose of the applications filed for recognition of the forest rights. Under sub-section (5) of Section 4 of the Act, till the recognition and verification procedure is completed, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from the forest land under his occupation.

In the light of the above, the writ petition is disposed of with the direction to respondent Nos.3 and 4 to dispose of the petitioners' applications filed for recognition of forest rights within a period of three months from the date of receipt of a copy of this order, after following the procedure prescribed under the provisions of the Act and the Rules. Needless to observe that the procedure includes issuance of notice to the petitioners and giving them an opportunity of being heard before passing appropriate orders on their applications. Till this

procedure is completed, the petitioners shall not be evicted from the lands in their occupation.

As a sequel to disposal of the writ petition, the interim order, dated 09.02.2009, granted by this Court in W.P.M.P.No.2704 of 2009 shall stand vacated and W.P.M.P.No.2704 of 2009 and W.V.M.P.No.2483 of 2009 are disposed of as infructuous.

**C.V.NAGARJUNA REDDY, J**

18<sup>th</sup> April, 2011  
VGB