

**STATE HUMAN RIGHTS COMMISSION, TAMIL NADU**

“Thiruvarangam”

No. 143, P.S. Kumarasamy Raja Salai  
(Greenways Road), Chennai 600 028

Tuesday, the 11<sup>th</sup> day of October 2022

**PRESENT**

**HON’BLE DR. A. CHITTARANJAN MOHANDOSS I.A.S, (RETD.), MEMBER**

**SHRC No. 1084/22/37 of 2021**

Tmt. S. Vasanthi  
and Villagers  
Thirupanipuram Village

...

Petitioners

-Vs.-

(1) The District Forest Officer  
Tirunelveli District

(2) The Superintending Engineer  
TANGEDCO (TNEB)  
Tirunelveli

(3) The Tahsildar  
Ambasamudiram  
Tirunelveli District

...

Respondents

**ORDER:**

A complaint was lodged by the Petitioner and other villagers on 12.02.2021 wherein it was stated that they are natives and residents of Thirupanipuram Village, Aladiyoor Part II, Ambasamudram Taluk, Tirunelveli District. That there are totally 25 families and that they are paying property tax for the land occupied by them. That they are mainly agriculturists and that they are doing organic farming in their patta lands. Their complaint is that they do not have any basic amenities because the Forest Department is preventing them from getting the same.

That as early as in the year 1979 they sought electricity connection for their agricultural pump sets and houses by a letter dated 27.10.1979 to the 2<sup>nd</sup> Respondent. That the 2<sup>nd</sup> Respondent by his letter dated 10.09.1990 came forward to give power supply and asked them to procure two electricity motors.

That the Petitioners also purchased two motors which are still in their possession. That the Electricity Board supplied electric posts and that the same were planted in the patta lands. That about 6 electric posts were not allowed to be fixed by the Forest Department because of which for the past 41 years there is no electricity connection. That the Petitioners pray that they should be given electricity connection. The Petitioners further claims that they own patta lands but have been denied Electricity connections, whereas the houses built on encroached forest lands at Lower Camp, Servalaru and Kanikudiyiruppu, electricity connection has been given.

2. It is also stated that they do not have piped water connections and as such they are forced to consume well water which is salty. For bringing potable water for their houses, they are forced to walk a minimum of 1.1/2 kms for fetching the same from the river and as such they want piped connections for drinking good water. That during the summer season, the wells become dry, which result in damage of the produce. Because of this, on payment of the appropriate fees, the sub collector permitted them to use water from the Tamirabharani river. However, they claim that, that has also been prevented by the forest department, presently. That the officials of the forest department do not permit the petitioners to take up any materials crossing the check post which are required for the purposes of agriculture. If a pipe breaks during the course of agricultural work, permission has to be obtained from the forest ranger or Deputy Director (Forest) to replace the same. This process takes at least 1 to 2 weeks of human effort and time, apart from the fact that during the said period the agricultural field dry up.

3. That the Forest Department had given a path measuring 8.5 feet in breadth as per the path allotted by the government. The petitioner claims that the villagers are unable to maintain the said path which is very narrow and as such

the path has to be widened to 20 feet and should be handed over to the Panchayat for maintenance.

The Petitioners further claim that the Forest Rights Act, 2006 allows the yield of small forests to be enjoyed by the villagers. However, the same is prevented by the Forest Department by stating that this act is not enforceable in Tamil Nadu and as such have prevented honey collection, fishing. The Petitioners claim that even for their food, fishing is not allowed. Since they are being prevented from maintaining their houses by the forest department, they are forced to take houses on rent at the foot hills for their children to stay and study because of which they have to spend additionally. That the villagers own bee hives and the forest department prevent them from taking their bee hives and insist that they should obtain permission. For obtaining permission it takes 1 to 2 weeks.

4. That under the Hon'ble Prime Minister's scheme subsidy is being given for installation of a borewell in Hill Areas. That the villagers sought permission for the same. That one Nagaraj, a retired employee, had given a wrong information to the Deputy Director (Forests) and that the same was stopped. That the Villagers were asked to contact Hill Area Conservation Authority and when contacted the said agency had stated that agriculturists are exempted from the said act. That when their relatives visit them, they are not permitted to visit the farms and also to other neighbourhoods such as Karaiyaru and Servalaru.

5. This Commission forwarded this complaint of the Petitioner and others to the Principal Chief Conservator of Forests, Chennai calling for their report. The 1<sup>st</sup> Respondent had stated in his counter that the six posts which are to be fixed falls in forest land of Kalakkadu Mundanthurai Tiger Reserve core area and that they have to obtain permission from him. And that no one had ever approached him for permission. He further states that a proposal has been sent to

declare the whole area as a Critical Wildlife Habitat to the Central Government and as such there are no rights can be given to people who are living in Tiger Reserve under the Forests Act, 2006. The 1<sup>st</sup> Respondent insists that as per Wildlife Protection Act, 1972 any material or instrument can be taken inside the forests only after obtaining the written permission of the Forest Department. He claims that the Villagers of Thirupanipuram are taking tourists into these areas, claiming them to be their relatives, and that they indulge in bathing in the rivers and cooking and hence prays that no action be taken upon the above petition.

6. The Petitioner and other villagers have once again submitted another petition on 12<sup>th</sup> August 2021 stating similar issues. They have enclosed the photographs of their damaged houses. They have vehemently stated that G.O. No. 49 (Housing and Urban Development) UD 2-2 dated 24.3.2003 is applicable only to villages situated in three districts i.e., Coimbatore, Dindugul and Nilgiris and would not be applicable to villages in Tirunelveli District.

7. That they have approached the Electricity Department and in turn electricity department has written several letters to the Forest Department. That the Forest department without considering the same is keeping it idle.

8. That the 8.5 feet wide 2.2 km length road gets battered during rainy seasons which affects the transport of their agricultural produces such as lemon, plantain and potatoes. That they have to approach the Forest Department for maintenance of the said road which takes several months and hence wants permission to them so that they can maintain the road permanently. Apart from that, the petitioner states that there is no order which specifically states that villages situated in hills and for patta lands, permission has to be obtained from the Deputy Director. That the Wildlife protection Act 1972 specifically recognizes fishing and hence a license has to be obtained from the fishing department.

Further it is stated, because they have given a representation to this commission, on 1.8.2021, when the petitioner's son one Aaroon, and relatives who were taking bath in Lower Camp were photographed by one Tmt. R. Shantha Watcher and one S. Karthik, anti poaching watcher and gave the same to one S. Jegan, Forester. That when her son was going in a car the same was intercepted and taken to the forest office and he was forced to write a letter that he would not bath in the river in future. The petitioner claims that one S. Gowtham, Deputy Director and Forest Ranger one Bharath, are causing all these hurdles as they are expecting a bribe and that all the above actions are taken based on their orders.

9. A letter has been received by this Commission from the Superintending Engineer of Tirunelveli Distribution Circle, wherein it has been stated that 14 beneficiaries of the said village had been granted solar lights. That 14 posts have already been fixed while the balance six posts cannot be fixed as the forest department did not permit them to do so. There are no pending applications for want of power supply and if the same is applied for, the permission of the forest department would be obtained and necessary action would be taken.

10. A report has been received from the Deputy Collector of Cheranmahadevi who had physically inspected the village along with Tahsildar Ambasamudram and had submitted his report. In his report it is stated that around 26 families are paying taxes out of which 7 families are permanently staying while the balance 19 families are doing agriculture in their lands and are staying in nearby villages. In the report it is also stated that the 19 families are unable to live here because there are no basic facilities such as electricity, water and transport and no internet connection for online classes for the education of their children.

11. On behalf of the 1<sup>st</sup> Respondent a counter has been filed by the Deputy Director, Project Tiger, Ambasamudram, wherein para wise remarks were

given. However, no reason has been assigned for preventing electricity connection and water connection, to the petitioners, which is their right to livelihood. It is stated that the Forest Department vide its letter No. D/5299/2019 dated 6.11.2019, to the Executive Engineer, Kallidaikurichi and he had been requested to apply online, to provide electricity supply towards domestic and agriculture activities in Thirupanipuram Villages and that the Executive Engineer had not applied for the same.

12. Upon receipt of the counter of the Forest Department, the Petitioner and other villagers submitted a rejoinder wherein they have denied the counter of the forest department, by giving explanation substantiating it with various Acts and Orders.

13. While the Forest Department states that by Government Order No. 49 Housing and Urban Development (UD-2) dated 24.3.2003 the works of maintenance of houses, cement, gravel and steel for construction of new houses and agricultural equipments such as earth movers, tractors are prohibited to be taken to the forest. However, it is submitted by the petitioners that the said submission is false in view of the fact that there is no need for the small and micro agriculturists to obtain permission for agricultural and its dependent works. Similarly, only when a house is built which is more than 300 sq.ft. permission from HACA has to be obtained. This is permitted in G.O.No. 154, Housing and Development UD 4 (3) dated 13.10.2020. The Petitioners submit that there is no Government Order which requires any permission from the Forest Department for such activity. The Petitioners further state that Government Order No. 66 Housing and Development UD-4 (3) dated 30.03.2020 has been passed only for commercial plots and layouts and that the same is not applicable to them. Similarly, there is no prohibition in Tamil Nadu Town and Country Planning Act (Act 35 of 1972) for construction of houses in the agricultural lands. It is the further contention of the

Petitioner and villagers that they own patta lands in revenue villages and as such the Forest Department is not specifically empowered by any Government Order to prohibit them from construction.

14. It is the further case of the Petitioners that they applied through Right to Information Act to the State Level Environment Impact Assessment Authority and that they have obtained a reply that there is no prohibition for agricultural work and construction work for own use. As such the villagers state that the allegation of the forest department is false. That the materials that are being taken for agricultural purposes and construction purposes should be recorded in a separate register at the check post and that they should be allowed to take the same, as was followed earlier. The Petitioner also claims that the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 along with Forest Rights Act 2006 would solely apply to them.

15. The Petitioner and villagers further state that the statement of the forest department that G.O. No. 145 (Environment and Forest) FR-5 dated 28.12.2007 Section 38 V and Forest Act 1972 Sec. 27 and 28 that permission is required for taking any article to the villages is absolutely wrong in view of the fact that no act specifically prohibits such things. Till date no letter has been sent by the Forest Department to the Electricity Board for giving power supply to Thirupanipuram and that their statement that they have sent a letter is false. It is the submission of the Petitioner and Villagers that lamp posts have been fixed in their patta lands as early as in the year 1981 and only six posts have to be fixed in the forest lands which was prevented by the forest department. It is also submitted that in the core forest area around 114 houses have been connected with electricity.

16. The Petitioners further state that the statement of the forest department's claim that they have given 8.5 feet width X 2.2 KM length pathway is wrong and that the same has been from the lower camp. That as per forest act and Forest Rights act there is a government order to give a pathway to their village.

17. The Petitioners state that there is no specific prohibitive order against them and that there is no need for them to obtain prior permission from the Forest Department. That their village comes under Forest Rights Act, 2006 and that their village is a village as defined under the said act.

18. It is further claimed by the petitioner that the statement of the forest department that fishing is prohibited in view of the definition of Animal as per Sec. 2 Sub Section 1 of Forest Protection Act, 1972 is wrong. In order to mislead this Hon'ble Commission, the Forest Department had inserted Fish in the definition of Animal. Fish is a product consumed by human beings as food. That around 500 persons have been given license including the villagers for fishing. That the Fishing Department is being prevented from issuing license to the said persons by the Forest Department.

19. This Commission has scrutinized and evaluated the complaint of the petitioner, the reply of the forest department and the EB and the Revenue Officials, and again the rejoinder by the petitioner and the reports of the various Governmental agencies. The complaint of the petitioner is that they are being deprived of basic amenities, which are a minimum requirement for a human being to live. The Indian Constitution has given a right to livelihood, which also incorporates basic amenities to life.

20. The dispute that has been ongoing for several decades has to be resolved by the parties concerned. This Commission is of the opinion that the



various departments needed to come to a combined plan of action to address the concerns of these families. This Commission is aware that the forests have to be safeguarded, and especially the Reserve forest Area. This commission would take into account the fact that the petitioner is a patta land holder and has been so for many years and the next generation too would have inherited the land over this long period of time. (the first petition being given in 1979). If the property tax on the land is being received at the Revenue Department, the question of whether the basic needs have to be given need not arise.

21. The Petitioner has also stated that minor forest produce are not banned as also the construction of houses that are not more than 300 sq ft. is also not illegal, such matters should be dealt with on a case by case basis and violation of the same can be addressed individually.

22. The Commission would like to emphasize that the purpose for which the Various departments of the Government function, is to straighten out the problems that the ordinary citizen faces while making a livelihood and in the ordinary course of his day to day life, and to ensure that society as a whole enjoys a good quality of life. This commission is concerned that the Government Staff have to be reminded that their first responsibility is to the citizens of this country in the area in which they are posted. In instances like this when the interest of the people is being curtailed because there is no clarity among the departments, this Commission strongly condemns the indifference and lackadaisical manner in which the matter has been dealt with.

23. In India, the constitutional right to access to clean drinking water can be drawn from the right to food, the right to clean environment and the right to health, all of which have been protected under the broad heading of the RIGHT TO LIFE, guaranteed under Article 21 of the Constitution. A detailed review of

international treaties suggests that the drafters of the Constitution of India implicitly considered water to be a fundamental resource. Later, access to water was one of the several explicit rights protected by international rights conventions and agreements. It is believed that basic human rights cannot be attained or guaranteed without also guaranteeing access to basic clean water. In addition to Article 21, Article 39 (b) mandates that 'the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.'

24. Similarly in a case reported in 2018 SCC Online HP 1495 decided on 22.10.2018 in Madan Lal Vs. State of Himachal Pradesh it has been decided that the prime consideration was whether the basic amenities of water and electricity shall be granted to the petitioner or not. It was stated that as they were an integral part of Right to Life within the meaning of Article 21 of the Constitution of India calls for immediate action. Thus till the title dispute remains pending, for that considerable period the petitioner shall be granted the same on subject to their payment of requisite charges and shall remain purely an interim and *ad hoc* measure till the title dispute was decided. Accordingly, the appeal was disposed of.

25. In the case cited above, the Petitioner was an encroacher in Government Land and hence he was denied electricity connection. However, the Hon'ble High Court interfered in the same and had directed the electricity Board to extend power connection immediately.

26. Hence, in the facts and circumstances of the case, this Commission is of the view that the Petitioners along with other 25 villagers have been denied potable drinking water and electricity connection for the past several years, among

other facilities and it is needless to emphasize that the same are their indefeasible right and a right to livelihood as guaranteed by the Indian Constitution.

27. In the result, this Commission recommends as follows:-

**RECOMMENDATIONS**

- (a) The Petitioner and villagers have to apply individually to the concerned authorities and the various departments, such as the TANGEDGO to get the relief they are entitled to.**
  
- (b) The 3<sup>rd</sup> Respondent should also ensure to supply potable water to the said village by laying appropriate pipes from the source of water to the said village within four weeks from the date of receipt of this order.**
  
- (c) The 1<sup>st</sup> Respondent or its subordinate officials or field officers should not interfere into the day to day affairs of the Petitioner and villagers and should not restrain them from transporting their agricultural and household requirements and other requirements and insist them to obtain permission.**
  
- (d) The Government of Tamil Nadu has to strictly monitor the above time frame and any violation should warrant disciplinary action against the concerned officials.**

Sd/-  
Member/C3

// By Order //

Assistant Registrar

Copy

- (1) The Additional Chief Secretary to Government  
Environment, Climate Change and Forests Department  
Government of Tamil Nadu  
Secretariat, Chennai – 600 009
- (2) The Additional Chief Secretary to Government  
Energy Department  
Government of Tamil Nadu  
Secretariat, Chennai – 600 009
- (3) The Principal Secretary to Government  
Revenue and Disaster Management Department  
Government of Tamil Nadu  
Secretariat, Chennai – 600 009

Copy to

S. Vasanthi  
& Thirupanipuram Villagers  
Papanasam Range  
Aladiyoor, Lower Camp  
Ambasamudiram Taluk  
Tirunelveli District