

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 1712 of 2008 (M/S)

Gulam Mustafa
& 19 others.

.....Petitioners.

Versus

State
& 4 others.

.....Respondents.

Shri Gopal Narain, Advocate for the petitioners.
Shri K.P. Upadhyaya, learned Additional Chief Standing Counsel for
respondents.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2. By means of this writ petition, the petitioners have sought writ in the nature of mandamus commanding the respondents No. 3 to 5 to constitute a committee, as per the Government Order dated 15.03.2008, for redressal of grievances of Ban Gujjars (members of a tribe living in forest) and a further direction has been sought directing to decide the representations of the petitioners.

3. Brief facts of the case are that it is pleaded that the petitioners are Ban Gujjars (members of a tribe living in forest). Under Section 14 of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which came into force on 01st of January 2008, Rules are said to have been framed by the Government of India (a copy of which is annexed as

annexure-4 to the writ petition). Rule 5, 7 and 9, provide for constitution of Sub-Divisional Level Committee, District Level Committee and State Level Monitoring Committee respectively by State Government to decide the claims made under the Act. Learned counsel for the petitioners submitted that even after issuance of the Government Order No. 439/XVII-1/2008-01 (26)/2004, dated 15.03.2008, issued by Government of Uttarakhand, District Magistrates have yet not constituted the Committees required to be constituted at the District Level, Sub-Divisional level and Gram Sabha Level.

4. Learned Additional Chief Standing Counsel pointed out that under the aforesaid Rules, Committees are required to be constituted by the State Government and not by the District Magistrate. However, he agrees that decision is required to be taken on the claims of the petitioners under the provision of aforesaid Act and rules framed thereunder. Learned counsel for the parties have no objection if this writ petition is disposed of summarily.

5. In the above circumstances, having heard learned counsel for the parties, and in view of the provisions contained in aforesaid Act and the Rules, this writ petition is summarily disposed of directing the respondent No. 1 to get constituted the committees, as provided under the aforesaid Rules positively within a



order is produced, so that the petitioners may make a representations/claims before the Committees concerned. (Interim relief application No. 6395 of 2008, also stands disposed of).

Sd/
(Prafulla C. Pant, J.)
Dt. 26.09.2008

Swata

*Compared with
original.*

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11-6-08
Assistant Registrar (Copying)
High Court of Uttarakhand
NAINITAL

