

Tribals suffer the court's order

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DURYODHAN Majhi, a Gond tribal living in the Sunabeda Wildlife Sanctuary in Nuapada, is a worried man these days. His community can no longer collect and sell non-timber forest produce (NTFP) to earn their livelihood. Their straitened circumstances are the direct result of a Supreme Court order passed in 1996 in the ongoing *TN Godavarman Thirumulkpad vs Union of India* case, and its insensitive implementation by the *Forrest Department of Orissa*.

Nuapada is part of the Koraput, Bolangir, and Kalahandi (KBK) region, where 70-80 per cent of the families supplement their income through the sale of NTFP; 83 per cent of the families here fall below the poverty line (BPL). The tribals in the sanctuary are mostly Paharias and Bhunjias who live in harmony with the forest and the wildlife. Several forest officials acknowledge this fact. Wildlife has increased over the years. The latest survey indicates there are 32 tigers in the sanctuary, the highest number in Orissa.

The Paharias are bamboo craftsmen. Although their counterparts in Chhattisgarh, the Kamars, are included in the list of scheduled tribals, the Paharias are not. The Bhunjias practise a traditional and primitive form of agriculture. Their food habits are mostly forest-based.

The implementation of the Supreme Court's directive takes away the livelihood of nearly all the people in the sanctuary area. Much before the area was notified, the people had been supplementing their income by selling NTFP either as food, commodity or as barter. "The present situation arises because of the Forest Conservation Act (FCA) and the directive of the Supreme Court as understood by the Orissa government's Forest Department," said Pabitra Pradhan, an activist in Nuapada district.

On January 3, during a consultation on protected areas in Bhubaneswar, writer and activist Madhu Sarin pointed out that the Supreme Court directive had been wrongly interpreted. In states such as Haryana, for instance, the Forest Department has not stopped the collection of NTFP. Ashish Kothari of Kalpavriksh shares Sarin's opinion and his organisation is approaching the Supreme Court to seek correct interpretation of the court's orders.

The conflict between the people and the authorities began when, following an order issued by the principal chief conservator of forests and wildlife and chief wildlife warden of Orissa, collection of NTFP from the sanctuary area was stopped, citing the Supreme Court directive. Soon, starvation deaths began to be reported in the media. The Supreme Court then directed the National Human Rights Commission (NHRC) to conduct a fact-finding enquiry and it was established that lack of livelihood was the main reason for starvation in the region. The Supreme Court specifically ordered the spe-

cial rapporteur to "supervise government wage employment programmes to ensure continuous livelihood options to the poor to avoid starvation deaths".

Although the programmes were speeded up, they were not enough. The tribals depend on NTFP for survival because livelihood options in the region are limited, especially during the lean season. Access to irrigation is only 5 per cent. Nuapada is often afflicted with drought, although it receives more than 1,000mm of rainfall on an average. Nuapada has also been declared a zero industry area because of poor infrastructure, says Laxmikant Khamari, a retired government chief engineer. There is mass migration to urban areas, especially between November and June. It's only during the kharif season

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that agriculture and allied activities provide wage employment to the people here.

In the Sunabeda Wildlife Sanctuary, the options are even more limited. Spread over 600 sq. km, Sunabeda is a hub of biodiversity, unique for its grassy plateau. This natural resource zone was notified as a sanctuary in June 1983, and officially declared a wildlife sanctuary in 1985. As per the records, the collector of Nuapada, vide his office order no. 5023, dated November 15, 1997, invited objections before determining the rights of the people, most of whom are tribals who have been living in the sanctuary area since time immemorial.

But it seems the whole process was rushed through to meet the deadline fixed by the Supreme Court in the Godavarman case. The collector unilaterally determined

the people's rights without listening to their grievances. The tribal communities thereby lost the right to collect and sell NTFP. According to Prassana Padhi, Biju Janata Dal (BJD) president in Nuapada, the rights of the people have not been determined as per legal procedures.

Also because of the Supreme Court order, the *Kendu* Leaf Division has had to close all its *phadis* inside the sanctuary area. On an average, 5,000-6,000 families living inside the sanctuary used to earn Rs33 lakh a year from collecting *kendu* leaves, according to the records of the Khariar *Kendu* Leaf Division. Add to this other NTFP like mahua and char, and it is clear that the tribals have lost a sizeable share of their earnings, says Pradhan.

This loss and the ensuing impoverishment will have other fallouts, too, say experts. According to a confidential report submitted by the Forest Department to the government, if the tribals' right to livelihood is taken away, many will resort to *ganja* cultivation. The terrain will work against the enforcement agencies curbing such activities. In recent years, richer people living outside the sanctuary have been trying to lure the innocent, impoverished tribals into petty crime. This will increase now. Illegal poaching of wild animals is also another dimension that will be added to the problem.

In April 2001, a movement to secure the tribals' rights to NTFP was led by A.V. Swamy director of the NGO, Vishwas. Swamy and his group issued the government notice of 15 days. There was no response. They removed the check-post barrier, entered the sanctuary, and collected NTFP. The government filed five cases against Swamy, his associates, and an entire tribal village, accusing them of violating the law. The chief minister ordered the cases to be withdrawn after Swamy brought the situation to his attention. Yet the cases are still pending in the lower courts and the tribals are living in perpetual fear of being arrested.

Swamy says the tribals have been denied the constitutional right to govern themselves by a departmental order. The government talks about empowering panchayats, but four panchayats inside the sanctuary have been told not to take up developmental work.

The state of Orissa has placed a proposal before the Union government to settle all land held by the tribals and other poor communities before 1980, regardless of land classification, but the land occupied by the tribals in Sunabeda have not been recommended for settlement in their favour.

So far, the Orissa government has not initiated any steps to address the contradictions created by the Supreme Court's order. When these inconsistencies were raised before the NHRC, it directed the collector of Nuapada, Lingaraj Khadenga, to submit an action taken report within six weeks. Khadenga, who has worked in the Forest Department, said the government has moved a proposal to allow the tribals to collect NTFP. He promised to look into the matter, but no action has been taken so far.